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# Re-emerging Vaccine Preventable Diseases: United States State Immunization Exemption Laws and the Relation to Annual State Pertussis Incidence-Trend Analysis

Evan M. Timme  
etimme3@gmail.com

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Re-emerging Vaccine Preventable Diseases:  
United States State Immunization Exemption Laws and the  
Relation to Annual State Pertussis Incidence-Trend Analysis

Evan Michael Timme

B.S., Lock Haven University of Pennsylvania, 2011

A Public Health Thesis

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## APPROVAL PAGE

Master of Public Health Thesis

### Re-emerging Vaccine Preventable Diseases: United States State Immunization Exemption Laws and the Relation to Annual State Pertussis Incidence-Trend Analysis

Presented by

Evan Michael Timme, B.S.

Major  
Advisor

\_\_\_\_\_  
Zita Lazzarini, JD, MPH

Associate  
Advisor

\_\_\_\_\_  
Joseph A. Burleson, PhD

Associate  
Advisor

\_\_\_\_\_  
Jennifer E. Bruening, PhD

University of Connecticut

2014

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## TABLE OF CONTENTS

Acknowledgements.....	p. ii
Introduction.....	p. 1
Literature Review.....	p. 2
Pertussis.....	p. 2
Immunization Exemption.....	p. 7
Methods.....	p. 10
Pertussis.....	p. 10
Categorizing Immunization Exemption.....	p. 14
Minimizing Study Risk.....	p. 18
Results.....	p. 19
Immunization Exemption.....	p. 22
Pertussis.....	p. 31
Immunization Exemption & Pertussis.....	p. 33
Discussion.....	p. 34
Immunization Exemption.....	p. 34
Pertussis.....	p. 35
Immunization Exemption & Pertussis.....	p. 36
Limitations.....	p. 37
Conclusion.....	p. 38
References.....	p. 51
Appendix I: 2013/2014 Immunization Exemption Statutes.....	p. 56
Appendix II: Immunization Exemption Session Law Review.....	p. 172
Appendix III: 50 State Survey-Childhood & Student Vaccinations.....	p. 945

## INTRODUCTION

The purpose of the current project is to investigate the United States (US) state immunization exemption laws and the relation of these laws to annual state pertussis incidence. Pertussis is a communicable respiratory disease caused by the *Bordetella pertussis* pathogen found only in humans.<sup>1</sup> This disease is often referred to as “whooping cough,” the sound commonly made by infected infants.<sup>2</sup> Pertussis is classified as an acute respiratory infection caused by the B. pertussis microbe.<sup>1</sup> The communicable nature of pertussis makes it particularly important to understand state immunization exemption policies and how these policies may impact pertussis in the US. A recent resurgence of reported pertussis cases in the US in 2012 drew attention to this vaccine-preventable disease. In 2012 there were 48,277 known reported cases of pertussis.<sup>3</sup> This marked the greatest number of annual cases since 1955, when there were 62,786 reported cases of pertussis in the US (Table 1).<sup>3</sup> This retrospective study, completed in 2014, aims to evaluate all 50 US state immunization exemption policies (including the District of Columbia) and all reported cases of pertussis from 1993 to 2012.

Since the first immunization law established in Massachusetts in 1809 mandating smallpox vaccination, courts have granted substantial deference to state legislatures to create individual state laws regarding immunization and immunization exemption.<sup>1</sup> Many states, even neighboring states, have adopted different immunization exemption laws leading to discontinuity between state approaches to control of vaccine-preventable diseases across the US. The individual control each state has over its immunization exemption policies may

lead to a lack of uniformity amongst different state vaccine-preventable disease practices. The discontinuity between states' immunization exemption policies can be problematic when trying to assess trends in state pertussis incidence. Currently, all US states offer one or more of three broad categories of exemptions to their immunization requirements: medical exemption; religious exemption; and philosophical or personal belief exemption.<sup>2</sup>

The aim of the project was to explore the relationship between individual state immunization exemption laws and state pertussis incidence throughout the US using a 20-year trend analysis. Although the published literature includes other studies of the possible relationship between states' immunization exemption policies and vaccine preventable disease outbreaks, there is not a current all-state analysis of pertussis data over an extended time period.

The Centers for Disease Control and Prevention (CDC), the US federal agency designed to protect the public's health through control and prevention, states "We don't know exactly why the number of cases [of pertussis] is increasing..."<sup>4</sup> This statement and the absence of current multi-year studies covering all 50 states inspired this current project.

## **LITERATURE REVIEW**

### **Pertussis**

Similar to measles, pertussis is highly preventable through repeated immunization of susceptible populations; however, over the last 20 years there have been numerous resurgences in the form of several outbreaks and state

declared epidemics of pertussis.<sup>5</sup> The pertussis immunization begins to lose its effectiveness after 5 to 10 years.<sup>6</sup> Immunization boosters are required to increase an individual's protection against the disease.<sup>6</sup> What is not the same between measles and pertussis are their number of US annual reported cases. In 2010 there were 63 nationally reported cases of measles (23 indigenous cases and 40 imported cases) compared to 27,550 nationally reported cases of pertussis.<sup>7</sup> The combination of pertussis' higher incidence rate, the decrease in immunization effectiveness after 10 years, parents choosing to opt their children out of vaccinations through state immunization exemption laws, and the 3 to 5 year cycle of pertussis epidemics make pertussis a disease of concern even in industrialized nations like the US.<sup>8</sup> Even in the presence of a known effective immunization, pertussis still persists as one of the top ten causes of death in children in the world, making the study of and the prevention of pertussis an issue of public health importance.<sup>6</sup>

Pertussis is caused by the microbe *B. pertussis*.<sup>9</sup> Humans are the only known biological vector that carries *B. pertussis*.<sup>10</sup> Transmission of the pertussis microbe commonly occurs through airborne and droplet transmission, where an uninfected individual directly inhales the microbe that has been introduced into the environment, via an infected individual, usually through a cough.<sup>6</sup> Oral or nasal inhalation of airborne or droplets containing *B. pertussis* into an uninfected individual allows the microbe to enter the individual's upper respiratory tract. Those infected experience throat soreness and what appears to be the common cold.<sup>11</sup>

The number of annual reported cases of pertussis in the US reached over 200,000 cases in the 1920's, 1930's, and 1940's.<sup>3</sup> During the pre-vaccination era, the US averaged an annual pertussis incidence rate of 157 per 100,000.<sup>1</sup> Through the introduction and widespread use of pertussis immunizations in the 1940's and 1950's, the US experienced a consistent decrease in annual reported cases of pertussis into the 1970's.<sup>1</sup> Low lowest number of annual reported cases of pertussis in the US occurred in 1976 totaling 1,010 reported cases of pertussis.<sup>3</sup> More recently, between 1993 and 2012 the number of annual reported cases of pertussis ranged from a low of 4,617 (1994) to a high of 48,277 (2012) with an average of over 14,200 cases annually.<sup>3</sup> When evaluating the number of annual reported cases it is important to note not every case of pertussis in the US is reported.

The underreporting of pertussis cases and case related deaths is problematic when trying to assess pertussis cases per year accurately.<sup>12</sup> Since pertussis can resemble symptoms similar to the common cold, not every case of pertussis is positively confirmed or reported. Estimates support that only about 10% of pertussis cases are actually reported on an annual bases.<sup>12</sup> Unreported cases complicate accurate assessment of the number of annual reported cases of pertussis.

While any human may develop pertussis, some factors, such as an individual's age or adherence to a recommended immunization regimen, may influence one's likelihood of becoming infected with *B. pertussis*.<sup>4</sup> However, age and proper adherence to recommended immunization regimen have an effect on

the distribution of pertussis. When comparing age, the distribution of cases reported in the US between 1997 and 2000 shows a far greater disease burden on individuals less than 1 year of age. Between 1997 and 2000 in the US age-specific pertussis incidence rates were about: 56 per 100,000 for individuals less than 1 year of age; 5 per 100,000 for individuals between 1 to 4 years of age; 3.5 per 100,000 for individuals between 5 to 9 years of age; 5 per 100,000 for individuals between the 10 to 19 years of age; and 1 per 100,000 for individuals 20 years of age and over.<sup>1</sup>

No method has been proven to be 100% effective in preventing the *B. pertussis* microbe infection.<sup>13</sup> Precautions such as proper childhood vaccination, routine boosters (every 5-10 years), and promotion of newborn parent vaccinations are all methods that can help to reduce the incidence of pertussis and hopefully the occurrence of future pertussis epidemics.<sup>14</sup> A 1998-2001 US case-control study reported pertussis immunization effectiveness of the DTP and or DTaP immunization: 83.6% effective for 1 or 2 pertussis doses; 95.6% effective for 3 pertussis doses; and 97.7% effective for  $\geq 4$  pertussis doses.<sup>13</sup> The influence of state policy can be a powerful tool to promote the health of those that reside in the state. The ability for a state to place “sin taxes” on tobacco products is a method of health promotion through state policy.<sup>15</sup> Similarly, state immunization exemption laws may have the ability to impact the health of a state through policy.

The researcher’s review of available published literature found peer-reviewed journals on pertussis and immunization exemptions. Between 1994



and 2014, 32,826 peer-reviewed published journal articles contained the word “pertussis”. Only 11 of the 32,826 peer-reviewed journal articles contained the words “immunization exemption”. Of the 11 peer-reviewed journal articles containing “pertussis” and “immunization exemption”: five were single-state reviews; four were multi-state reviews; and two non-state reviews.<sup>16-26</sup> Of the five single-state reviews, only Richardson *et al.* published an immunization exemption analysis greater than 10-years.<sup>16-19,23</sup> The 16-year review assessed the rates of personal belief exemption in the state of California between 1994 and 2009; found the rate of personal belief exemption increased an average of 9.2% per year over the 16-year period.<sup>23</sup>

Of the four multi-state reviews, only Diekema published a historical review of immunization exemption.<sup>21,22,24,25</sup> Diekema reports: overlap between immunization exemption and pertussis clustering; a 5 per 100,000 pertussis case increase for every 0.1% exemption rate increase; but did not compare different immunization exemptions to pertussis incidence for each state overtime.<sup>25</sup>

Both single-year and multi-year research at the single-state and multi-state levels are published; however, a current and multi-decade trend analysis of pertussis and immunization exemptions all 50 states is lacking.

### **Immunization Exemption**

All 50 states permit medical exemptions.<sup>2</sup> Medical exemption generally requires an individual to be “immunocompromised, have allergic reactions to vaccine constituents, have moderate or severe illness, or other medical

contraindications to vaccination” as deemed by a physician or other approved individual.<sup>1</sup> The party seeking exemption must present a letter or form of documentation from the granting physician or other approved individual to the body requiring immunization. School districts and systems require immunization prior to students’ attendance; the military also requires immunizations.<sup>3</sup>

Forty-eight states currently permit religious exemptions to state immunization requirements.<sup>2</sup> Carbonetti reports, all states but Mississippi and West Virginia allow religious affiliation or beliefs as a basis for exemption from immunization requirements.<sup>2</sup> Importantly, not every state has the same requirements to justify a religious exemption. For instance, Texas requires “individuals claiming religious exemptions be a member of a recognized religious group that opposes all immunizations and submit a letter from a faith leader”.<sup>5</sup> Whereas in New York, “[adherence to immunization mandate] shall not apply to children whose parent, parents, or guardian hold genuine and sincere religious beliefs which are contrary to the practices herein required, and no certificate shall be required as a prerequisite to such children being admitted or received into school or attending school.”<sup>27</sup>

Finally, a number of states permit exemptions based on philosophical or personal beliefs. States generally allow philosophical or personal belief exemption on the basis of philosophical, moral, conscious, and or personal beliefs. For example, North Dakota’s N.D. Cent. Code, § 23-07-17.1 subsection 3 states “[philosophical exemption is permitted when] the child’s parent or guardian whose... philosophical, or moral beliefs are opposed to such

immunization.<sup>28</sup> Currently, 19 states permit philosophical or personal belief exemption.<sup>2</sup>

Washington State was the location of a vaccine-preventable disease epidemic in 2012. On April 3, 2012 the Washington State Secretary of Health declared a state pertussis epidemic.<sup>29</sup> As of June 16, 2012 2,520 cases of pertussis were reported in the state.<sup>29</sup> The report of 2,520 cases (37.5 cases per 100,000) of pertussis marked a 1,300% increase in reported cases, when compared to the same time period from 2011.<sup>29</sup> In 2008 outbreaks of measles occurred twice and, most recently, Washington State experienced an outbreak of 4,916 reported cases of pertussis in 2012.<sup>5, 6</sup> Washington State's number of reported pertussis cases accounts for almost 12% of the nationally reported cases, over 3 times high than 2011.<sup>6</sup> During the 2008 measles outbreak, 18 of the 19 reported measles cases were people who had not been vaccinated (1 infant not old enough to be vaccinated, 2 under the age of 4 years, and 15 children of school age).<sup>6</sup> One in 9 US parents (about 12%) "have refused at least 1 recommended childhood vaccine".<sup>9</sup> The decrease in herd immunity due to the refusal of recommended vaccinations is one potential outcome that could have an impact on the public health of a state or the nation.

Although personal freedom and freedom of choice is important, so is the protection of people from vaccine-preventable diseases. In a comparison of exempted children to vaccinated children from 1985 to 1992, on average children not vaccinated were "35 times more likely to contract measles than were vaccinated persons".<sup>5</sup>

In a 2006 study, Omer *et al.* tried “To determine if (1) the rates of nonmedical exemptions differ and have been increasing in states that offer only religious vs personal belief exemptions; (2) the rates of nonmedical exemptions differ and have been increasing in states that have easy vs medium and easy vs difficult processes for obtaining exemptions; and (3) pertussis incidence is associated with policies of granting personal belief exemptions, ease of obtaining exemptions, and acceptance of parental signature as sufficient proof of compliance with school immunization requirements.”<sup>30</sup> Omer *et al.* found, between 2001 and 2004, states that permitted personal belief exemption had higher nonmedical exemption rates compared to states that did not permit personal belief exemptions.<sup>30</sup> Between 1991 and 2004, states permitting personal belief exemption experienced an average of 6% increase of non-medical exemptions per year; indicating non-medical exemptions in the US consistently increased in states permitting personal belief exemption.<sup>30</sup> States permitting personal belief exemption experienced 48% higher pertussis incidence compared to states not permitting personal belief exemption (95%C.I., 1.03-2.13).<sup>30</sup>

There is currently a gap in the literature around the topic of the national impact of state immunization exemption laws on disease outbreaks, health impacts and costs. Several studies reviewed single-state immunization exemption laws and multi-state trend analyses on immunization exemption or school-based immunization exemption. However, a current multi-decade collection and assessment of immunization exemption laws has not been found.

This project builds a foundation for better understanding of immunization exemption laws and the number of annual reported cases of pertussis over the 20-year timeframe between 1993 and 2012.

## **METHODS**

### **Pertussis**

The current project conducted a retroactive 20-year trend analysis comparing US state annual reported cases of pertussis and US state immunization exemption laws. This project aims to investigate the possible relationship between US state immunization exemption laws and annual state pertussis incidence. Additionally, this project compiled a comprehensive collection of 1993 to 2012 US immunization exemption policies through the review of state policies and session laws.

The specific aims of this research are to determine: 1) whether there has been a change in US immunization exemption policies from 1993 to 2013; 2) if there has been a change in US immunization exemption policies, does this change indicate an increase or decrease trend in immunization exemption policy; 3) whether there has been a change in annual state reported cases of pertussis from 1993 to 2012; and 4) if there has been a change in annual state reported cases of pertussis, does this change indicate an increase or decrease trend in the number of reported cases of pertussis.

The study population is the entire US. The major unit of analysis for this research study is the comparison of the individual states and the two consistently

reported major locations between the years 1993 to 2012 (District of Columbia and New York City) in the US. Each state or major location represents a physical region. Each reported case of pertussis is assigned to one of the states or major locations. The particular state or major location of a reported case of pertussis is determined by the residence of the individual who has a reported case of pertussis. The states and major locations act as a method to categorize the US population. States and major locations represent small subsections within the US, each with their own respective state population. All annual pertussis reported case data used for this study were collected by the researcher from public access reports electronically published on the CDC's website.

The CDC electronically publishes an annual comprehensive disease-specific report called the Summary of Notifiable Diseases-United States.<sup>31</sup> This annual report has published notifiable disease data from the years 1993 to 2011. In this annual disease-specific report, pertussis annual reported case data has been reported on the national, state, and major location levels. All reported data and information published in the Summary of Notifiable Diseases-United States reports has been de-identified. Having this data and information de-identified reduces the potential risk of adverse effects and burden such as stigmatization. Each annual report is a culmination of the past year's weekly publications of the Morbidity and Mortality Weekly Report, an electronic report also published by the CDC.

The Summary of Notifiable Diseases-United States report is currently published about eighteen months after the end of a calendar reporting year,

resulting in delays of useable data. The last Summary of Notifiable Diseases-United States report published was the 2011 report on July 5, 2013.<sup>31</sup> All pertussis annual reported data for the years 1993 to 2011 were collected from the Summary of Notifiable Diseases-United States, for each year respectively.<sup>7,31-48</sup> The 2012 annual reported cases of pertussis were obtained from the CDC Morbidity and Mortality Weekly Report Volume 62 Number 52.<sup>49</sup>

All positively confirmed cases of pertussis must be reported to the state health department of the state where the case was confirmed. On a weekly basis each state health department reports the total number of positively confirmed cases for each mandatory reportable disease that week to the CDC. The CDC publishes weekly collected reportable disease totals in a weekly report known as the Morbidity and Mortality Weekly Report. Each weekly report indicates the number of positively confirmed cases for each mandatory reportable disease. The weekly reports are reported at the national level (the total number of all reported cases in the nation that week); at the state level (the total number of all reported cases for each state that week) reported respectively for each state; and at the major location level (the total number of all reported cases for each major location that week) reported respectively for each major location. New York City and the District of Columbia are the only two major locations assessed in this trend analysis.

Each annual Summary of Notifiable Diseases-United States report reports confirmed cases of pertussis at the national, state, and major location level. To allow for state-to-state and state-to-major location comparisons, the researcher

calculated annual pertussis incidence. Annual pertussis state incidence is calculated to reflect the number of positively reported cases of pertussis per 100,000 state residents. Using the US Census Bureau, state and major location populations were obtained for each year of 1993 to 2012. Each population was then matched to their respective number of reported cases of pertussis (ex. 1999 Connecticut population matched to 1999 Connecticut reported number of pertussis cases). Incidence rate was calculated by dividing a state's population by the state's number of annual reported cases of pertussis and multiplied by 100,000. Multiplying by 100,000 creates an incidence rate per 100,000 of the given population. This was done for each year of the collected data.

Annual pertussis incidence was calculated for each state and major location for each of the 20 years of the trend analysis by the researcher. The researcher used US Census Bureau published data sets for 1990, 2000, and 2010 state and major location population.<sup>50</sup> Yearly state populations were estimated for 1991-1999 and 2001-2009. The researcher calculated estimated populations by adding the percentage of decade change in state or major location population reported by the US Census Bureau to the reported 1990 or 2000 population. For example, the 1996 estimated state and major location populations are calculated by adding 60% of state or major location 1990 to 2000 population change to the respective state or major location population of 1990. The 2010 state and major location populations were used for the 2011 and 2012 populations.



The researcher performed regression analysis to assess possible trends for this study. Regression analysis will assess incidence rate over time, immunization exemption category over time, and incidence rate by immunization exemption category. The level of variance between state or major location immunization exemption category and annual pertussis incidence rate will indicate if exemptions affect pertussis incidence. Cohen's criteria for needed effect size assess whether an acceptable trend over time was present.<sup>51</sup>

The Summary of Notifiable Diseases-United States report also reports the number of confirmed pertussis cases by age, sex, race, and ethnicity at the national level.<sup>7</sup> These national level variables (age, sex, race, and ethnicity) cannot be analyzed at the state level and were not included in this project.

### **Categorizing Immunization Exemption**

The project also identified and categorized the number and types of exemptions permitted in each state as variables. The researcher reviewed immunization exemption policy from the LexisNexis 50 State Comparative Legislation / Regulation: Childhood & Student Vaccinations (Appendix III), published in November of 2011. The collection of statutes is the statute listing for each state's and the District of Columbia's immunization and immunization exemptions statutes. For each state and the District of Columbia, the researcher reviewed all listed statutes using the LexisNexis Academic database. The researcher collected and compiled the immunization exemption statutes into

Appendix I. All state and the District of Columbia statutes compiled in this appendix are current for the year 2013 or 2014.

A review of immunization exemption statute amendment history was performed. The researcher reviewed HeinOnline session laws was used to review the immunization exemption statute amendment history.<sup>52</sup> To determine whether each state and the District of Columbia permitted medical immunization exemption, religious immunization exemption, and philosophical or personal belief immunization exemption, the history of immunization exemption statutes and amendments was reviewed. The review of statute history, obtained from the LexisNexis Academic review, was compiled for all available immunization exemptions passed or effective for the years of 1993 to 2012. If an incomplete state statute history was obtained from the LexisNexis Academic review, determination of immunization exemption(s) permitted for the incomplete years was not performed.

The researcher compiled the history of each state's immunization exemption policies between 1993 and 2012 (Appendix II). This compiled list of state immunization exemption statutes was used to determine the immunization exemptions permitted for the 1993 to 2012 review of this study. For this project, a medical exemption is defined as: where a state permits exemption from immunization requirements based on possible adverse and or detrimental effects from an immunization. A religious immunization exemption is defined as: where a state permits exemption when immunization conflicts with the religion, religious tenants, and or the religious beliefs of the individual or the parent or guardian of

the individual. A philosophical or personal belief immunization exemption is defined as: where the state permits exemption from immunization requirements when immunization conflicts with the philosophical beliefs, personal beliefs, conscious, and or moral objections individual or the parent or guardian of the individual.

States and major locations analyzed for the research study are states where 16 or more years of immunization exemption statute history was obtained through review of HeinOnline state session laws. States where 15 or fewer years of immunization exemption statute history was obtained through review of HeinOnline state session laws were omitted from analysis in this research study.

The immunization exemption definitions and the compiled history review of state statutes were used to determine each state's immunization exemption law status for each year of the duration of this trend analysis (1993-2012). For each year of the trend analysis every state or major location was categorized as a 1, 2, 3, or 4. States and major locations categorized as a 1 represents a state or major location that only permits medical immunization exemption for that particular year. States and major locations categorized as a 2 represents a state or major location that permits medical immunization exemption and religious immunization exemption for that particular year. States and major locations categorized as a 3 represents a state or major location that permits medical immunization exemption and philosophical or personal belief immunization exemption for that particular year. States and major locations categorized as a 4 represents a state or major location that permit medical immunization exemption,

religious immunization exemption, and philosophical or personal belief immunization exemption for that year.

Exemption categories were structured to reflect the exemptions permitted by a state or major location. As the exemption category number increases, so does the number of exemptions permitted by a state or major location. Category 1 indicates fewer exemptions than categories 2, 3, and 4. Of course, philosophical or personal belief immunization exemption may be used because of one's religious beliefs even if the state or major location does not explicitly permit religious immunization exemptions. For this reason, category 3 is a broader exemption than category 2 and category 4 is a broader exemption than category 3.

Each state missing 1, 2, 3, or 4 years of immunization exemption status received computed generated immunization exemption status for the respective year. The researcher generated missing immunization exemption status by calculating the average immunization exemption status for all obtained years and used this computed average for all missing years. Immunization exemption computed averages were done for each state where 16, 17, 18, or 19 years of immunization exemption statute history was obtained through review of HeinOnline state session laws.

The grouping of states into the four categorizes, for each year of the trend analysis, were used to perform a regression analysis. The regression allows for a trend analysis to assess whether, over the 20 year period, states and major

locations are permitting more immunization exemptions over time, less immunization exemptions over time, or if immunization exemptions have not changed over time.

### **Minimizing Study Risk**

Performing a retroactive trend analysis on publicly published de-identified data has a low-level of risk or harm to the individuals represented in the reported 1993 to 2012 data. The annual Summary of Notifiable Diseases-United States report, released by the CDC, publishes pertussis data that is exclusively presented in count form (number of reported cases nationally; number of reported cases per state; and number of reported cases per major location). However, incidence rates are not reported for the nation, the states, or the major locations. This project required the calculation of incidence rates for state-to-state and state-to-major location comparison. The CDC Summary Notifiable of Diseases-United States reports do not include sensitive and identifiable individual information like social security number, sexual history, income, address, and or phone number.

Prior to the start of this research study, the researcher filed for Exemption Status through the University of Connecticut Health Center Institutional Review Board (UCHC IRB). The UCHC IRB granted that Exemption Status was not required for this research study. A Human Subject Research-Determination Form was then submitted to the University of Connecticut Health Center Institutional Review Board. The UCHC IRB reviewed the Human Subject Research-Determination Form and stated a: "Project is not human subject

research and IRB involvement in not required” and “Project contains no HIPAA identifiers and therefore HIPAA does not pertain.” The absence of individual identifiable data used in this research design protects the identity of those who have mandatory reportable cases of pertussis.

All variables analyzed in this research study were assessed using the statistical software package SPSS.<sup>54</sup> Before statistical assessment, all variables were analyzed for skewness. All variables exceeding the limits of less than -1.000 skewness or greater than 1.000 skewness were transformed into normalized data.

## RESULTS

The total sample size for this study was 52 (n=52) states and major locations. Annual reported cases of pertussis from 1993 to 2012 were obtained for all US states and the District of Columbia. New York State was divided into New York Upstate and New York City. These 52 US jurisdictions reported a total of 284,460 cases of pertussis from 1993 to 2012. During this timeframe, 1994 experienced to lowest number of annual national reported pertussis cases, totaling 4,617. The highest number of annual national reported cases of pertussis occurred in 2012, totaling 48,277 reported cases of pertussis. Annual state and major location reported cases of pertussis from 1993 to 2012 ranged from a low of 0 reported cases (Alaska and Wyoming in 1994 and Delaware in 2001) to a high of 7,195 reported cases (California in 2010) . An average of 14,223 cases of pertussis was reported annually in the US from 1993 to 2012.

The greatest increase in annual national reported cases of pertussis occurred between 2011 (18,719 cases) and 2012 (48,277 cases), where there was a 157.9% increase in the number of national reported cases of pertussis. The greatest decrease in annual national reported cases of pertussis occurred between 2005 (25,616 cases) and 2006 (15,632 cases), where there was a 39.0% decrease in the number of annual national reported cases of pertussis.

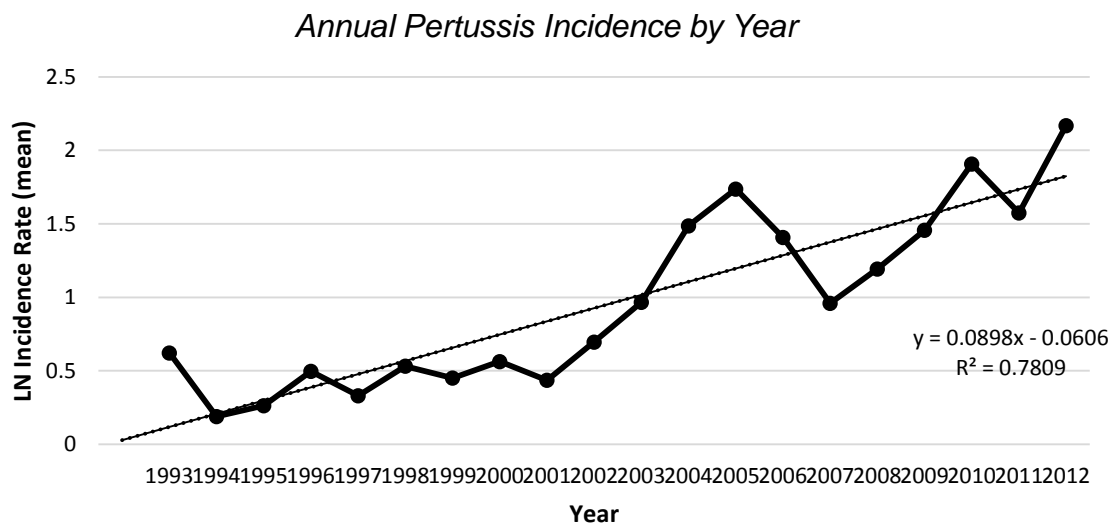
The Summary of Notifiable Diseases-United States report provides data on all 50 states and major locations, subdivided into regions (New England, Mid. Atlantic, E.N. Central, W.N. Central, S. Atlantic, E.S. Central, W.S. Central, Mountain, and Pacific).<sup>32</sup> Tables 2-10 include data on each state's and major location's annual reported pertussis cases from 1993 to 2012.

The researcher calculated annual pertussis incidence rates for each state and major location for each of the 20-years of the study. Each annual pertussis incidence rates for each state and major location were calculated to reflect the number of reported cases of pertussis per 100,000 persons. Pertussis incidence rate ranged from a low of 0.00 per 100,000 (Alaska and Wyoming in 1994 and Delaware in 2001) to a high of 120.98 per 100,000 (Wisconsin in 2012). The researcher tested annual pertussis incidence rates for skewness and found 19 out of 20 annual pertussis incidence rates outside the acceptable parameters of -1.000 and 1.000 (Table 11). Only the year 2010 had an acceptable skewness of 0.583 (Table 11). The researcher calculated the natural log of each annual pertussis incidence rate to normalize the variables. After normalizing the annual pertussis incidence rates, the researcher assessed variable skewness and found

the natural log of each annual pertussis incidence rate for each of the 20 years to be within the acceptable parameters (Table 11).

The normalized natural log annual pertussis incidence rates were graphed and analyzed for a linear trend. Figure 1 displays the graphed mean natural log annual pertussis incidence rates for each year between 1993 and 2012. The linear trend line of best fit indicates pertussis incidence has been increasing over the 20-year timeframe of the study. The equation for the linear trend line of best fit is  $y = 0.0898x - 0.0606$  with an  $R^2$  value of 0.7809. The positive linear slope of 0.0898 represents a trending increase in the natural log of annual pertussis incidence rate. For every increase in the year, there is a 0.0898 increase in the mean natural log of the annual pertussis incidence rate. The  $R^2$  value of 0.7809 signifies that 78.09% of the pertussis incidence rate variance is accounted for by the linear trend line of best fit.

Figure 1.





## **Immunization Exemption**

The project determined the number and types of exemptions permitted under each state's and major location's immunization laws by reviewing their annual session laws to identify amendments or other possible changes that might have occurred each year. Table 12 compiles all immunization exemption session laws reviewed between 1993 and 2012. Forty-seven of the possible 52 states and major location met the inclusion requirements for immunization exemption analysis. Of the 52 states and major location reviewed, 42 had complete session law reviews for all 20-years. The project determined and recorded the types and number of exemptions to immunization requirements permitted by each of the 42 states and major locations for each year of the 20-year trend analysis.

Table 12.

*Immunization Exemptions Permitted by State and Major Location*

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Conn.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Maine	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Mass.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
N.H.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
R.I.	3	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Vt.	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
N.J.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
N.Y. (Upstate)	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
N.Y. City	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Pa.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Ill.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Ind.												2	2	2	2	2	2	2	2	2
Mich.	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Ohio	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Wis.		4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Iowa								2	2	2	2	2	2	2	2	2	2	2	2	2
Kans.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Minn.	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Mo.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Nebr.		2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
N. Dak.	3	3	3	3	3	3	3	4	4	4	4	4	4	4	4	4	4	4	4	4

Note. 1=Only Medical Exemption; 2=Medical & Religious Exemption; 3=Medical & Philosophical Exemption; 4=Medical, Religious, & Philosophical Exemption

(Table 12 continues)

(Table 12 continued)

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
S. Dak.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Del.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
D.C.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Fla.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Ga.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Md.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
N.C.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
S.C.		2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Va.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
W. Va.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Ala.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Ky.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Miss.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Tenn.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Ark.	2	2	2	2	2	2	2	2	2	2	4	4	4	4	4	4	4	4	4	4
La.														4	4	4	4	4	4	4
Okla.	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Tex.			2	2	2	2	2	2	2	2	2	4	4	4	4	4	4	4	4	4
Ariz.																	3	3	3	3
Colo.	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4

Note. 1=Only Medical Exemption; 2=Medical & Religious Exemption; 3=Medical & Philosophical Exemption; 4=Medical, Religious, & Philosophical Exemption

(Table 12 continues)

(Table 12 continued)

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Idaho	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Mont.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Nev.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
N. Mex.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Utah	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Wyo.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Alaska																				
Calif.	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Hawaii				2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Oreg.	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Wash.	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4

Note.1=Only Medical Exemption; 2=Medical & Religious Exemption; 3=Medical & Philosophical Exemption; 4=Medical, Religious, & Philosophical Exemption

States with complete sets of session laws (20 years) or missing 25 % or fewer years were included in the 20-year trend analysis of immunization exemptions. Ten states, Indiana, Wisconsin, Iowa, Nebraska, South Carolina, Louisiana, Texas, Arizona, Alaska, and Hawaii, did not have complete session law histories when the researcher reviewed HeinOnline. Five of these ten states, Indiana (missing = 55%), Iowa (missing = 35%), Louisiana (missing = 65%), Arizona (missing = 80%), and Alaska (missing = 100%) were missing more than 25% of the session laws and were not included in the trend analysis of exemptions. The remaining five, Wisconsin (missing = 5%), Nebraska (missing = 5%), South Carolina (missing = 5%), Texas (missing = 10%), and Hawaii (missing = 15%), were included in the trend analysis. For each of the five states missing 25% or fewer years, the researcher generated immunization exemption category averages for those years missing session laws as follows: Wisconsin's generated immunization exemption category average for 1993 was 4; Nebraska's for 1993 was 2; South Carolina's for 1993 was 2; Texas' for 1993 and 1994 was 3; and Hawaii's for 1993, 1994, and 1995 was 2. Alaska is the only state or major location where the researcher could not obtain any session laws for review. Alaska's statute review only defined the types of schools (religious and private) that are exempt from education laws and regulations; not the forms of immunization exemption.

Of the states and major locations where session laws were successfully reviewed, every state and major location permitted medical immunization exemption. Mississippi (1993-2012) and West Virginia (1993-2012) are the only

two states or major locations that only permit medical immunization exemption.

The remaining states all permit medical exemptions and at least one other category. Table 13 displays the number of states or major locations for each of the four immunization exemption categories for each year of the study.

Table 13.

*Immunization Exemptions Permitted by Year*

	Med	Med & Rel	Med & Phil	Med, Rel, & Phil	Total
1993	2	27	5	8	42
1994	2	30	4	9	45
1995	2	31	4	9	46
1996	2	32	4	9	47
1997	2	32	4	9	47
1998	2	32	4	9	47
1999	2	32	4	9	47
2000	2	33	4	9	48
2001	2	33	3	10	48
2002	2	33	3	10	48
2003	2	32	3	11	48
2004	2	32	3	12	49
2005	2	32	3	12	49
2006	2	32	3	13	50
2007	2	32	3	13	50
2008	2	32	3	13	50
2009	2	32	4	13	51
2010	2	32	4	13	51
2011	2	32	4	13	51
2012	2	32	4	13	51

Four states or major locations changed immunization exemption category during the study period. Between 1993 and 1994, Rhode Island changed from permitting medical and philosophical immunization exemptions to permitting medical and religious immunization exemptions. The 1979 Rhode Island Legislation Session passed § 16-38-2, an amendment that allowed medical and

philosophical immunization exemptions if “such person is not a fit subject for immunization for medical reasons or a certificate signed by the parent or guardian stating that immunization is contrary to his beliefs.” This law was effective until July 26, 1993 when the Rhode Island Legislation amended § 16-38-2; repealing philosophical immunization exemption and permitting religious immunization exemptions if “the person is not a fit subject for immunization for medical reasons or a certificate signed by the pupil, if over eighteen (18) years of age, or by the parent or guardian stating that immunization and/or testing for communicable diseases is contrary to that person’s religious beliefs.” Rhode Island is the only state or major location in the study that experienced an immunization exemption category decrease.

Between 1999 and 2000, North Dakota changed from permitting medical and philosophical immunization exemptions to permitting medical, religious, and philosophical exemptions. The 1979 North Dakota Legislation Session amended § 23-07-17.1 subsection 3 permitting immunization exemption if “Any minor child, through his parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by his parent or guardian whose beliefs are opposed to such immunization. The minor child shall then be exempt from the provisions of this section.” This law was effective until August 1, 1999 when the North Dakota Legislation session amended § 23-07-17.1 subsection 3; permitting immunization exemptions if “Any minor child, through his parent or guardian, may submit to the

institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by his parent or guardian whose religious, philosophical, or moral beliefs are opposed to such immunization. The minor child shall then be exempt from the provisions of this section.”

Between 2002 and 2003, Arkansas changed from permitting medical and religious immunization exemptions to permitting medical, religious, and philosophical exemptions. The 1967 General Assembly of the State of Arkansas enacted Act 244 § 2 permitting medical immunization exemption if “in the discretion of the health authority having jurisdiction, of any physician licensed to practice by the three medical examining boards enumerated in Section of Act 148 of 1935 [Ark. Stats. (1947) Section 72-201], any person to whom this Act applies shall be deemed to have physical disability which may contraindicate vaccination, a certificate to that effect, issued by the said health officer, may be accepted in lieu of a certificate of vaccination.” Religious immunization exemption was permitted in section 3 of Act 244 where “this Act shall not apply if the parents or legal guardian or guardians of such child object thereto on the grounds that such immunization conflicts with the religious tenets and practices of a recognized church or religious denomination of which said parent or guardian is an adherent or member.” Philosophical immunization exemption was permitted in the state of Arkansas on April 1, 2003. The 2003 General Assembly of the state of Arkansas enacted Act 999 section 1 permitting philosophical immunization exemption if “parents or legal guardian of that child object thereto



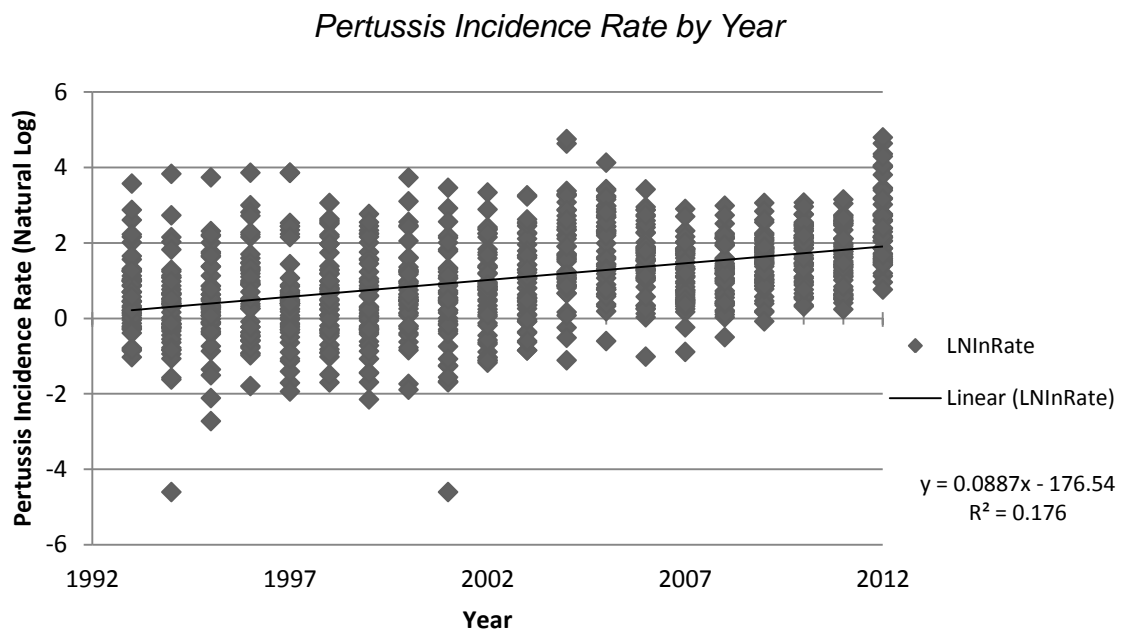
on the grounds that immunization conflicts with the religious or philosophical beliefs of the parent or guardian.”

Finally, between 2003 and 2004, Texas changed from permitting medical and religious immunization exemptions to permitting medical, religious, and philosophical exemptions. During the 74<sup>th</sup> Legislature Regular Session in 1995, the Legislature of the State of Texas enacted section 38.001 subsection (c)(1)(A) permitting medical immunization exemption if “an affidavit or certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician’s opinion, the immunization required would be injurious to the health and well-being of the applicant or any member of the applicant’s family or household.” Subsection (c)(1)(b) of this same enacted section permitted religious immunization exemption if “an affidavit signed by the applicant or, if the minor, by the applicant’s parent or guardian stating that the immunization conflicts with the tenets and practices of a recognized church or religious denomination of which the applicant is an adherent or member, except that this exemption does not apply in times of emergency or epidemic declared by the commissioner of public health.” During the 78<sup>th</sup> Legislature Regular Session in 2003, the Legislature of the State of Texas enacted Article 2 § 2.160 to amend § 38.001 subsection (c)(1)(B). § 38.001 subsection (c)(1)(B) was amended to permit philosophical immunization exemption if “an affidavit signed by the applicant or, if a minor, by the applicant’s parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief.”

## Pertussis Incidence

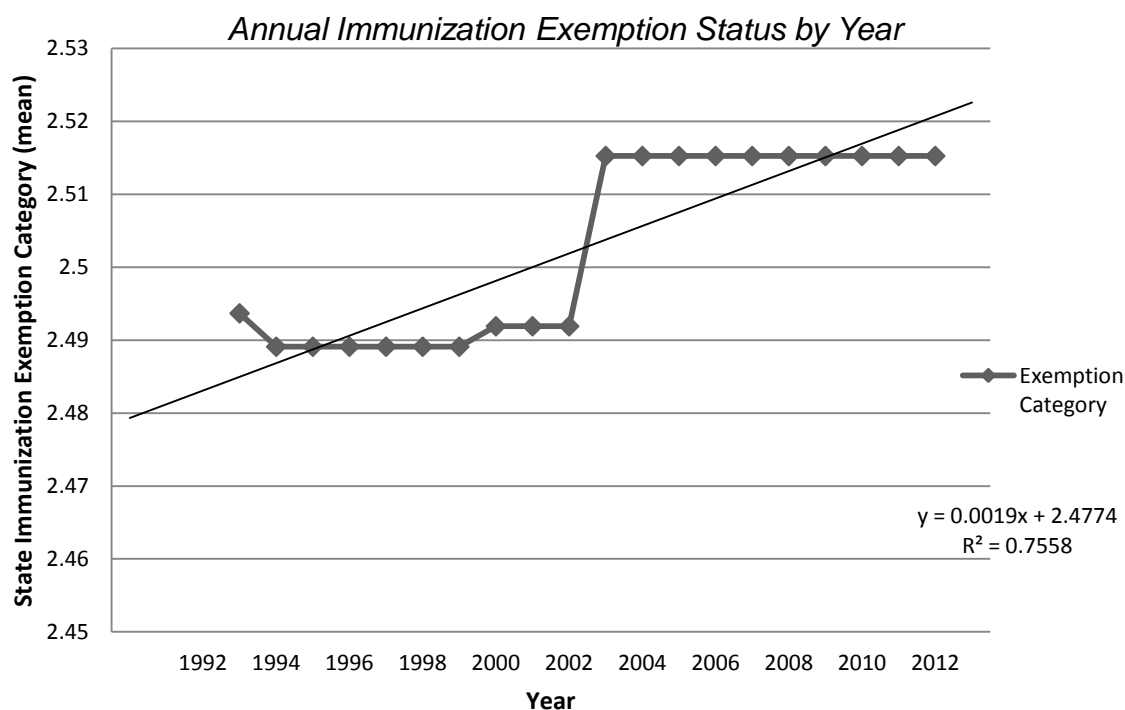
Annual pertussis incidence rates were assessed through regression analysis. Figure 2 displays each state and major location natural log annual pertussis incidence rate for each year between 1993 and 2012. The equation for the linear trend line of best fit is  $y = 0.0887x - 176.54$  with an  $R^2$  value of 0.176. This regression indicates a positive  $R^2$  value 0.176. Suggesting 17.6% of the variance in pertussis incidence is accounted for by the linear trend for the 20-year period of the study. Using Cohen's principle of required effect size needed ( $k/[N-1]$ ), the required effect size for pertussis incidence rate by year is equal to  $1/[52-1]=0.0196$ . The  $R^2$  value of 0.176 exceeds the needed 0.0196 threshold, suggesting there is an increasing trend in pertussis incidence over the 20 year study period.

Figure 2.



US immunization exemption category status was assessed through regression analysis. Figure 3 displays the mean immunization exemption category status for the US between 1993 and 2012. The equation for the linear trend line of best fit is  $y=0.0019x + 2.4774$  with an  $R^2$  value of 0.7558. This regression indicates a positive  $R^2$  value 0.7558. Suggesting 75.58% of the variance in immunization exemption categories is accounted for by the linear trend for the 20-year period of the study. Using Cohen's principle of required effect size needed ( $k/[N-1]$ ), the required effect size for pertussis incidence rate by year is equal to  $1/[47-1]=0.0217$ . The  $R^2$  value of 0.7558 exceeds the needed 0.0217 threshold, suggesting there is an increasing trend in the number and categories of immunization exemptions across the US during the study period.

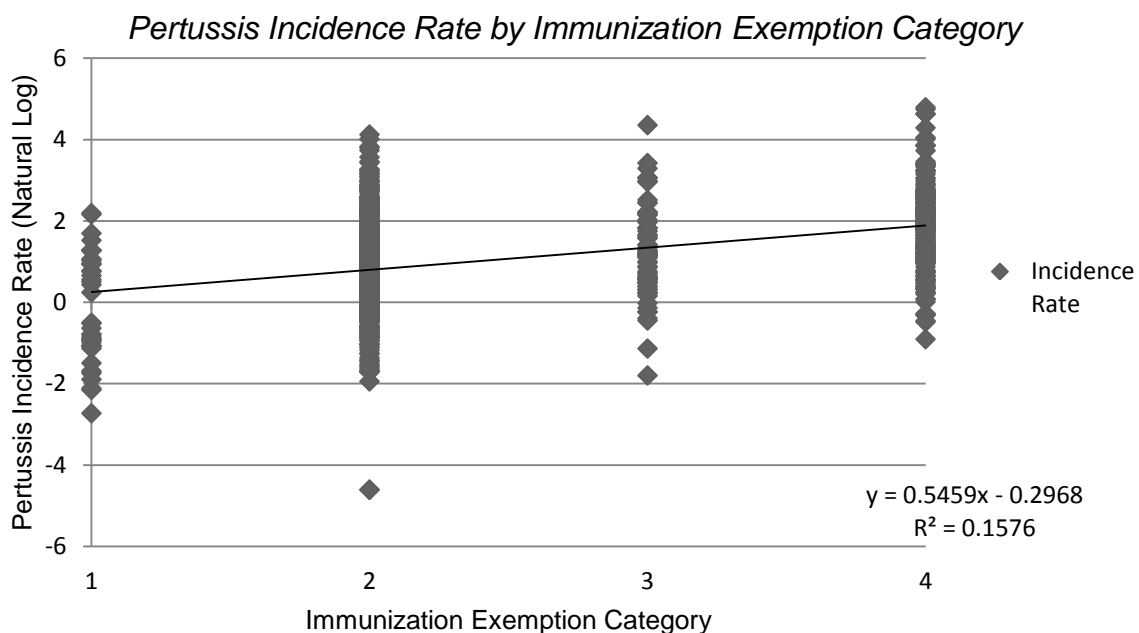
Figure 3.



## Immunization Exemption & Pertussis

The last statistical assessment is the regression analysis of immunization exemption category and pertussis incidence rate. Figure 4 displays the each state's or major location's annual pertussis incidence rate grouped by their respective immunization exemption category. A linear trend line was then fit to the regression analysis. The equation for the linear trend line of best fit is  $y=0.5459x + 0.2968$  with an  $R^2$  value of 0.1576. This regression indicates a positive  $R^2$  value 0.1576. Suggesting 15.76% of the variance in pertussis incidence is accounted for by the immunization exemption category. Using Cohen's principle of required effect size needed ( $k/[N-1]$ ), the required effect size for pertussis incidence rate by immunization exemption category is equal to  $1/[47-1]=0.0217$ . The  $R^2$  value of 0.1576 exceeds the needed 0.0217 threshold, suggesting pertussis incidence increases as the immunization exemption category increases.

Figure 4.



## DISCUSSION

### Immunization Exemption

This analysis found that the number of categories and scope of exemptions to state immunization requirements in the US increased between 1993 and 2012. Table 13 represents the number of states and major locations that permit each of the three forms of immunization exemption over the 20-years. Not every state had a full 20-year immunization exemption session law review. The researcher found incomplete state amendment histories during the LexisNexis Academic exemption policy review. Over 80% of all states and major locations had complete records of amendments or changes to their immunization exemptions over the 20-year study period. Of the ten states without complete reviews, five states were missing three or fewer years of session law reviews.

Rhode Island was the only state in this study to experience an immunization exemption category decrease. Three states experienced an immunization exemption category increase. Less than 10% of states and major locations changed immunization exemption category; suggesting minimal change in US immunization exemption policy over the 20-year study period.

This analysis found a positive trend in immunization exemption categories over time. This positive trend indicates that, overall, individual states and major locations permit a greater number of less-restrictive immunization exemptions in 2012 than they did in 1993. A total of four states changed immunization exemption category over the 20-year period. Three states increased immunization exemption category while only one state decreased in immunization exemption category. Increasing possible exemptions at the state level could make it easier for individuals to qualify for exemptions. Although the reasons for policy changes in immunization exemptions in individual states was outside the scope of this project, the increase in the number and scope of exemptions may reflect policymakers' response to increasing public resistance to immunizations among some populations.

### **Pertussis**

Across states the annual reported cases of pertussis increased between 1993 and 2012. Table 1 represents the number of national reported cases from 1922 to 2012. US annual reported cases of pertussis have increased consistently since the mid 1970's. Between 1973 and 1992, reported pertussis

cases increased just over two-fold. Subsequently, between 1993 and 2012, reported pertussis cases have increased seven-fold indicating a greater increase in US pertussis compared to the previous 20-year period.

The researcher calculated incidence rates allowing consistent comparison of pertussis over the 20-years study period. Incidence rates allowed standardized comparison between states and major locations of different populations over different years. Similar to immunization exemption category and numbers of pertussis cases, this analysis found pertussis incidence increased from 1993 to 2012. This trend indicates the proportion of diseased individuals is increasing compared to the population.

### **Immunization Exemption & Pertussis**

States and major locations that permitted only medical immunization tended to experience the lowest levels of pertussis incidence. States and major locations that permitted medical and religious immunization exemptions experienced higher levels of pertussis incidence compared to states and major locations that only permitted medical immunization exemption. States and major locations that permitted medical and philosophical immunization exemption experienced higher levels of pertussis incidence compared to states and major locations that permitted medical and religious immunization exemption. States and major locations that permitted medical, religious, and philosophical immunization exemption tended to experience the highest levels of pertussis incidence.

Many factors may have contributed to the increase in pertussis incidence over the study period. However, one important potential contributing factor may be the number and scope of exemptions permitted under state laws. Consequently, this study examined the relationship between pertussis incidence and immunization exemptions.

As displayed in Figure 4, all states' pertussis incidences were grouped by their respective immunization exemption category and graphed. The trend line of best fit indicates a positive correlation between pertussis incidence and immunization exemption category. As immunization exemption category increases (the scope and number of possible exemptions increases) so does pertussis incidence. The positive correlation found here between immunization exemption category and pertussis incidence, indicates that more than 15.75% of the variance of pertussis incidence is accounted for by immunization exemption category. This finding marks a relationship between immunization exemption and pertussis incidence.

### **Limitations**

Of course other factors may also be contributing to increases in pertussis incidence (and other outbreaks of vaccine-preventable diseases). More individuals (parents and guardians as well as adults) may be seeking exemptions from state requirements. They may be motivated by fears of health risks associated with immunizations (autism, etc.) even when the early reports of such risks have been thoroughly debunked. Immunization rates may be lower among



certain populations, fueling focused outbreaks. There may be increases in vulnerable populations for whom certain immunizations are contra-indicated. Increases in disease could even be related to changes in specific pathogens over time or signal waning immunity for some immunizations. However, policymakers should clearly review the possible role of state policies (in the form of immunization exemptions) when trying to reduce the incidence of vaccine-preventable diseases and consider amending or repealing existing immunization exemption statutes.

## **CONCLUSION**

The purpose of this project was to explore the relationship between US state immunization exemption laws and annual state pertussis incidence.

Even in the presence of known effective method of preventing pertussis, individuals can still exercise their right to claim an exemption from immunization requirements. This study did not address the possible reasons that individuals claim exemptions. For example, the growth of an anti-vaccine movement in recent decades may have a substantial impact on whether individuals (in many states) choose whether or not to be immunized or have their children immunized.

Proper adherence to recommended vaccine regimen may be one of the most important methods to decrease the burden of morbidity and mortality caused by pertussis. The primary prevention for pertussis requires both regularly scheduled immunizations and boosters in subsequent years. When children receive the recommended vaccination at 2 months, 4 months, 6 months, 16

months, and at 4-5 years of age these children are between 80-90% less susceptible of becoming infected if exposed to *B. pertussis*.<sup>11</sup>

Results of this study demonstrate the relevance of state immunization policies, particularly exemption policies, to outbreaks of vaccine preventable disease on a national level. This study has also laid a foundation for further vaccine preventable disease research. Additional factors for future consideration include: whether specific geographic locations are associated with increases or decreases in current rates of vaccine-preventable diseases; whether exemptions are associated with other vaccine-preventable diseases; proportions of each states' population immunization exemptions; surveillance methods to determine confirmed cases of pertussis; and the use of hierarchical linear modeling to compare nested study variables. Evidence-based practices are at the core of public health and this research study supports informative future research.

Table 1.

*United States Reported Pertussis Cases by Year (1922-2012)*

Year	No. Reported Pertussis Cases	Year	No. Reported Pertussis Cases	Year	No. Reported Pertussis Cases
1922	107,473	1953	37,129	1984	2,276
1923	164,191	1954	60,886	1985	3,589
1924	165,418	1955	62,786	1986	4,195
1925	152,003	1956	31,732	1987	2,823
1926	202,210	1957	28,295	1988	3,450
1927	181,411	1958	32,148	1989	4,157
1928	161,799	1959	40,005	1990	4,570
1929	197,371	1960	14,809	1991	2,719
1930	166,914	1961	11,468	1992	4,083
1931	172,559	1962	17,749	1993	6,586
1932	215,343	1963	17,135	1994	4,617
1933	179,135	1964	13,005	1995	5,137
1934	265,269	1965	6,799	1996	7,796
1935	180,518	1966	7,717	1997	6,564
1936	147,237	1967	9,718	1998	7,405
1937	214,652	1968	4,810	1999	7,298
1938	227,319	1969	3,285	2000	7,867
1939	103,188	1970	4,249	2001	7,580
1940	183,866	1971	3,036	2002	9,771
1941	222,202	1972	3,287	2003	11,651
1942	191,383	1973	1,759	2004	25,827
1943	191,890	1974	2,402	2005	25,619
1944	109,873	1975	1,738	2006	15,631
1945	133,792	1976	1,010	2007	10,454
1946	109,860	1977	2,177	2008	13,278
1947	156,517	1978	2,063	2009	16,858
1948	74,715	1979	1,623	2010	27,550
1949	69,479	1980	1,730	2011	18,719
1950	120,718	1981	1,248	2012	48,277
1951	68,687	1982	1,895		
1952	45,030	1983	2,463		

Table 2.

*New England Division Reported Pertussis Cases by Year*

Year	Conn.	Maine	Mass.	N.H.	R.I.	Vt.	Annual Total
1993	102	20	408	168	14	122	834
1994	21	107	46	534	8	44	760
1995	47	70	81	492	7	34	731
1996	49	55	1245	197	40	280	1866
1997	36	26	582	150	19	283	1096
1998	54	5	805	149	21	80	1114
1999	35	33	649	116	49	96	978
2000	54	46	1411	159	28	254	1952
2001	24	22	537	31	9	113	736
2002	30	21	602	78	22	172	925
2003	77	91	1670	119	55	71	2083
2004	67	196	1698	134	53	180	2328
2005	85	55	1167	186	53	90	1636
2006	126	174	1238	226	101	110	1975
2007	89	83	1178	80	59	63	1552
2008	55	49	800	49	87	12	1052
2009	56	80	358	76	45	11	626
2010	107	53	284	23	44	18	529
2011	68	205	271	170	62	94	870
2012	182	737	648	269	113	645	2594

Table 3.

*Mid. Atlantic Division Reported Pertussis Cases by Year*

Year	N.J.	N.Y. (Upstate)	N.Y. City	Pa.	Annual Total
1993	85	373	116	417	991
1994	15	254	224	202	695
1995	20	253	67	129	469
1996	31	533	61	327	952
1997	14	214	78	197	503
1998	29	352	54	260	695
1999	19	1020	61	219	1319
2000	56	385	90	288	819
2001	23	175	59	198	455
2002	34	442	24	194	694
2003	188	1067	150	352	1757
2004	223	1969	196	560	2948
2005	192	656	111	514	1473
2006	301	1083	112	587	2083
2007	229	549	150	386	1314
2008	246	456	114	495	1311
2009	244	265	98	615	1222
2010	169	721	111	979	1980
2011	312	928	323	742	2305
2012	1395	2715	456	1945	6511

Table 4.

*E.N. Central Division Reported Pertussis Cases by Year*

Year	Ill.	Ind.	Mich.	Ohio	Wis.	Annual Total
1993	434	178	116	523	376	1627
1994	111	97	96	162	149	615
1995	155	76	103	175	158	667
1996	192	128	59	289	169	837
1997	155	104	71	165	219	714
1998	173	185	71	299	191	919
1999	140	90	74	322	117	743
2000	133	153	127	389	140	942
2001	194	116	149	327	199	985
2002	231	183	62	441	180	1097
2003	321	104	140	328	697	1590
2004	1554	364	303	766	5641	8628
2005	922	396	321	1185	1089	3913
2006	588	280	632	644	221	2365
2007	199	68	292	609	327	1495
2008	628	270	317	845	192	2252
2009	648	392	900	1096	170	3206
2010	1057	747	1564	1807	583	5758
2011	1509	367	691	767	1192	4526
2012	2026	441	845	893	6880	11085

Table 5.

*W.N. Central Division Reported Pertussis Cases by Year*

Year	Iowa	Kans.	Minn.	Mo.	Nebr.	N. Dak.	S. Dak.	Annual Total
1993	38	24	393	144	14	5	8	626
1994	23	18	142	45	14	5	26	273
1995	11	23	238	63	14	8	12	369
1996	32	14	433	74	15	1	4	573
1997	207	33	547	80	16	2	5	890
1998	78	105	439	59	21	46	8	756
1999	111	56	281	75	9	31	8	571
2000	67	42	575	97	28	9	11	829
2001	139	31	308	107	8	11	5	609
2002	157	63	429	147	9	9	8	822
2003	166	46	207	208	16	7	7	657
2004	1066	250	1368	595	97	757	169	4302
2005	1106	542	1571	656	295	168	183	4521
2006	345	310	320	308	101	43	26	1453
2007	150	104	393	118	70	14	60	909
2008	257	106	1034	561	277	25	67	2327
2009	235	240	1121	1015	141	30	58	2840
2010	697	182	1140	604	214	58	29	2924
2011	232	145	658	438	56	70	37	1636
2012	1736	887	4142	815	240	214	70	8104

Table 6.

*S. Atlantic Division Reported Pertussis Cases by Year*

Year	Del.	D.C.	Fla.	Ga.	Md.	N.C.	S.C.	Va.	W. Va.	Annual Total
1993	11	14	104	56	133	199	73	75	8	673
1994	3	11	109	37	74	140	14	37	6	431
1995	10	8	94	30	49	137	28	31	1	388
1996	26	4	100	35	278	186	49	108	7	793
1997	1	3	90	18	119	118	32	59	6	446
1998	5	1	66	38	66	112	29	56	7	380
1999	8	1	113	52	124	104	27	65	6	500
2000	9	3	67	52	133	129	63	134	3	593
2001	0	1	29	23	53	75	34	272	6	493
2002	4	2	53	29	68	46	48	168	35	453
2003	9	4	113	36	94	144	208	219	28	855
2004	16	13	132	28	159	101	206	400	51	1106
2005	16	11	208	48	219	127	405	363	53	1450
2006	3	6	228	102	152	334	199	221	66	1311
2007	11	9	211	37	118	330	102	128	32	978
2008	18	7	314	115	164	94	147	198	11	1068
2009	13	7	497	223	148	220	262	222	40	1632
2010	15	16	328	247	139	343	392	384	166	2030
2011	29	9	312	179	123	198	156	399	101	1506
2012	57	26	575	318	369	612	224	625	85	2891



Table 7.

*E.S. Central Division Reported Pertussis Cases by Year*

Year	Ala.	Ky.	Miss.	Tenn.	Annual Total
1993	65	38	11	183	297
1994	35	60	12	22	129
1995	38	27	3	209	277
1996	26	142	10	24	202
1997	34	74	11	40	159
1998	27	95	6	40	168
1999	21	49	3	45	118
2000	20	63	4	45	132
2001	37	96	5	70	208
2002	37	103	9	124	273
2003	19	53	15	83	170
2004	49	98	17	173	337
2005	82	155	62	217	516
2006	106	59	37	172	374
2007	91	33	255	84	463
2008	69	183	105	116	473
2009	305	226	75	197	803
2010	206	303	106	233	848
2011	143	179	49	110	481
2012	212	666	77	305	1260

Table 8.

*W.S. Central Division Reported Pertussis Cases by Year*

Year	Ark.	La.	Okla.	Tex.	Annual Total
1993	18	14	86	121	239
1994	33	15	38	160	246
1995	59	22	44	217	342
1996	14	15	21	151	201
1997	62	21	60	233	376
1998	93	13	33	288	427
1999	26	9	43	152	230
2000	44	21	60	327	452
2001	858	12	43	615	1528
2002	488	7	135	1240	1870
2003	92	11	106	670	879
2004	95	23	120	1184	1422
2005	321	51	127	2224	2723
2006	112	24	64	954	1154
2007	173	21	58	1051	1303
2008	197	95	100	2046	2438
2009	369	149	117	3358	3993
2010	245	50	198	2848	3341
2011	80	31	68	961	1140
2012	248	72	154	2218	2692

Table 9.

*Mountain Division Reported Pertussis Cases by Year*

Year	Ariz.	Colo.	Idaho	Mont.	Nev.	N. Mex.	Utah	Wyo.	Annual Total
1993	70	187	101	11	5	43	45	2	464
1994	122	228	172	12	3	35	37	0	609
1995	164	149	116	9	119	148	37	1	743
1996	33	336	115	37	41	64	26	8	660
1997	45	415	570	18	51	198	29	7	1333
1998	241	357	263	17	41	100	297	8	1324
1999	139	313	146	2	14	155	58	2	829
2000	143	488	64	35	15	91	47	4	887
2001	690	389	171	54	41	137	78	1	1561
2002	717	465	151	10	48	200	115	11	1717
2003	211	372	82	5	35	78	127	130	1040
2004	278	1184	66	84	53	158	276	35	2134
2005	1108	1383	220	586	50	196	618	53	4214
2006	508	710	88	115	71	147	779	83	2501
2007	210	307	45	53	37	74	387	24	1137
2008	218	161	40	84	28	94	242	18	885
2009	277	231	99	61	24	85	220	22	1019
2010	546	540	187	121	38	144	352	12	1940
2011	867	416	192	134	34	273	645	13	2574
2012	1130	1494	235	549	112	924	1591	62	6097

Table 10.

*Pacific Division Reported Pertussis Cases by Year*

Year	Alaska	Calif.	Hawaii	Oreg.	Wash.	Annual Total
1993	5	619	14	106	91	835
1994	0	594	19	106	140	859
1995	1	531	61	67	491	1151
1996	3	780	35	64	830	1712
1997	16	483	19	48	481	1047
1998	15	1085	26	89	407	1622
1999	5	1144	51	61	739	2000
2000	21	631	41	110	458	1261
2001	16	706	42	57	184	1005
2002	7	1120	30	188	575	1920
2003	67	1255	12	438	844	2616
2004	14	1109	30	627	842	2622
2005	159	3182	163	619	1047	5170
2006	91	1749	87	112	377	2416
2007	89	590	19	123	482	1303
2008	277	534	20	181	460	1472
2009	59	869	46	252	291	1517
2010	45	7195	67	286	607	8200
2011	27	2319	59	314	962	3681
2012	353	795	73	906	4916	7043

Table 11.

*Incidence Rate & LN Incidence Rate Skewness by Year*

Pertussis Incidence Rate		LN Pertussis Incidence Rate	
Year	Skewness	Year	Skewness
1993	6.801	1993	0.172
1994	11.091	1994	-0.481
1995	9.006	1995	0.086
1996	4.337	1996	0.547
1997	6.926	1997	0.617
1998	2.718	1998	0.101
1999	1.999	1999	0.139
2000	4.507	2000	0.388
2001	4.899	2001	-0.446
2002	2.241	2002	-0.350
2003	3.002	2003	-0.061
2004	4.770	2004	0.117
2005	2.120	2005	-0.363
2006	2.741	2006	-0.302
2007	2.758	2007	0.004
2008	3.087	2008	0.307
2009	1.655	2009	0.409
2010	0.583	2010	-0.481
2011	1.576	2011	-0.243
2012	2.978	2012	0.535

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## Appendix I:

### 2013/2014 Immunization Exemption Statutes

#### Alabama

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#### **TITLE 16 Education** **CHAPTER 30 Immunization of School Children**

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#### **Code of Ala. § 16-30-3 (2013)**

#### **§ 16-30-3. Exemptions.**

The provisions of this chapter shall not apply if:

- (1) In the absence of an epidemic or immediate threat thereof, the parent or guardian of the child shall object thereto in writing on grounds that such immunization or testing conflicts with his religious tenets and practices; or
- (2) Certification by a competent medical authority providing individual exemption from the required immunization or testing is presented the admissions officer of the school.

#### **Code of Ala. § 16-30-4 (2013)**

#### **§ 16-30-4. Certificate of immunization.**

The boards of education and the governing authority of each private school shall require each pupil who is otherwise entitled to admittance to kindergarten or first grade, whichever is applicable, or any other entrance into an Alabama public or private school, to present a certification of immunization or testing for the prevention of those communicable diseases designated by the State Health Officer, except as provided in Section 16-30-3. Provided, however, that any student presently enrolled in a school in this state, not having been immunized upon initial entrance to school, is hereby required to present a certification of immunization as described in this section upon commencement of the next school year. Section 16-30-1 and this section shall apply only to kindergarten through 12th grade and not to the institutions of higher learning.

**HISTORY:** Acts 1979, No. 79-677.

**Alaska**  
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TITLE 14. EDUCATION, LIBRARIES, AND MUSEUMS  
CHAPTER 45. PRIVATE AND DENOMINATIONAL SCHOOLS  
ARTICLE 2. EXEMPT RELIGIOUS AND OTHER PRIVATE SCHOOLS

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Alaska Stat. § 14.45.100 (2013)

**Sec. 14.45.100. Exemption**

A religious or other private school that complies with AS 14.45.100 -- 14.45.130 is exempt from other provisions of law and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations.

**HISTORY:** (§ 5 ch 11 SLA 1984)

**Arizona**  
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\*\*\* Fifty-first Legislature, 1st Regular Session and 1st Special Session, All  
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TITLE 15. EDUCATION  
CHAPTER 8. SCHOOL ATTENDANCE  
ARTICLE 6. SCHOOL IMMUNIZATION

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**A.R.S. § 15-873 (2013)**

**§ 15-873. Exemptions; nonattendance during outbreak**

A. Documentary proof is not required for a pupil to be admitted to school if one of the following occurs:

1. The parent or guardian of the pupil submits a signed statement to the school administrator stating that the parent or guardian has received information about immunizations provided by the department of health services and understands the risks and benefits of immunizations and the potential risks of nonimmunization and that due to **personal beliefs, the parent or guardian does not consent to the immunization of the pupil.**

2. The school administrator receives written certification that is signed by the parent or guardian and by a physician or a registered nurse practitioner, that states that **one or more of the required immunizations may be detrimental to the pupil's health** and that indicates the specific nature and probable duration of the medical condition or circumstance that precludes immunization.

B. An exemption pursuant to subsection A, paragraph 2 is only valid during the duration of the circumstance or condition that precludes immunization.

C. Pupils who lack documentary proof of immunization shall not attend school during outbreak periods of communicable immunization-preventable diseases as determined by the department of health services or local health department. The department of health services or local health department shall transmit notice of this determination to the school administrator responsible for the exclusion of the pupils.

**HISTORY:** Laws 2007, Ch. 97, § 14.

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\*\*\* Legislation is current through the 2013 Regular Session and updates \*\*\*  
\*\*\* received from the Arkansas Code Revision Commission through \*\*\*  
\*\*\* November 15, 2013. \*\*\*  
\*\*\* Annotations are current through January 16, 2014. \*\*\*

Title 6 Education  
Subtitle 2. Elementary And Secondary Education Generally  
Chapter 18 Students  
Subchapter 7 -- Health

**A.C.A. § 6-18-702 (2014)**

**6-18-702. Immunization.**

(a) Except as otherwise provided by law, no infant or child shall be admitted to a public or private school or child care facility of this state who has not been age-appropriately immunized from poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles, rubella, and other diseases as designated by the State Board of Health, as evidenced by a certificate of a licensed physician or a public health department acknowledging the immunization.

(b) (1) The responsibility for the enforcement of this section rests equally with each school district of this state and the parent or guardian of the child or pupil, and each of them shall be separately and individually liable for permitting any violation of this section.

(2) (A) The Division of Child Care and Early Childhood Education of the Department of Human Services shall be responsible for enforcing this section with respect to child care facilities.

(B) The division may promulgate appropriate rules and regulations, to be approved by the Arkansas Early Childhood Commission, for the enforcement of this section.

(C) The owners or managers of those facilities and any parent or guardian violating the regulations shall be subject to the penalties provided in the Child Care Facility Licensing Act, § 20-78-201 et seq.

(c) (1) (A) (i) The division shall be responsible for enforcing this section with respect to child care facilities.

(ii) The division may promulgate appropriate rules and regulations for the enforcement of this section.

(B) The owners or managers of those facilities and any parent or guardian violating the regulations shall be subject to the penalties provided in the Child Care Facility Licensing Act, § 20-78-201 et seq.

(2) (A) Regarding kindergarten through grade twelve (K-12), the State Board of Education, after having consulted with the State Board of Health, shall promulgate appropriate rules and regulations for the enforcement of this section by school district boards of directors, superintendents, and principals.

(B) Any school official, parent, or guardian violating the regulations shall be subject to the penalties imposed in this section.

(d) (1) (A) The State Board of Health shall promulgate rules and regulations to ensure that all exemptions provided by this section shall have a minimal effect on the health and safety of all children attending day care or kindergarten through grade twelve (K-12).

(B) The rules shall provide for, but are not limited to, the tracking of those children with exemptions so that appropriate steps may be taken in the event of an outbreak or epidemic.

(2) The Department of Health, and no other department or entity, shall grant exemptions provided by this section.

(3) If in the discretion of the health authority having jurisdiction or of any physician licensed to practice by the Arkansas State Medical Board any person to whom this section applies shall be deemed to have a **physical disability that may contraindicate vaccination**, a certificate to that effect issued by the health officer may be accepted in lieu of a certificate of vaccination, provided that the exemption shall not apply when the disability shall have been removed.

(4) (A) This section shall not apply if the parents or legal guardian of that child object thereto on the grounds that immunization conflicts with the religious or philosophical beliefs of the parent or guardian.

(B) The parents or legal guardian of the child shall complete an annual application process developed in the rules and regulations of the Department of Health for medical, religious, and philosophical exemptions.



(C) The rules and regulations developed by the Department of Health for medical, religious, and philosophical exemptions shall include, but not be limited to:

(i) A notarized statement requesting a religious, philosophical, or medical exemption from the Department of Health by the parents or legal guardian of the child regarding the objection;

(ii) Completion of an educational component developed by the Department of Health that includes information on the risks and benefits of vaccination;

(iii) An informed consent from the parents or guardian that shall include a signed statement of refusal to vaccinate based on the Department of Health's refusal-to-vaccinate form; and

(iv) A signed statement of understanding that:

(a) At the discretion of the Department of Health, the unimmunized child or individual may be removed from day care or school during an outbreak if the child or individual is not fully vaccinated; and

(b) The child or individual shall not return to school until the outbreak has been resolved and the Department of Health approves the return to school.

(D) No exemptions may be granted under this subdivision (d)(4) until the application process has been implemented by the Department of Health and completed by the applicant.

(5) Furthermore, the provisions of this section requiring pertussis vaccination shall not apply to any child with a sibling, either whole blood or half blood, who has had a serious adverse reaction to the pertussis antigen, which reaction resulted in a total permanent disability.

(e) Any person found guilty of violating this section or the regulations promulgated by the State Board of Education or the division for the enforcement of this section shall be guilty of a violation and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for each offense.

**HISTORY:** Acts 1967, No. 244, §§ 1-3; 1973, No. 633, § 1; 1983, No. 150, § 1; A.S.A. 1947, §§ 80-1548 -- 80-1550; Acts 1997, No. 871, § 1; 1999, No. 1222, §§ 1, 2; 2003, No. 999, § 1; 2005, No. 1994, § 185.

**California**  
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\*\*\* This document is current through the 2014 Supplement \*\*\*  
(All 2013 legislation)

HEALTH AND SAFETY CODE  
Division 105. Communicable Disease Prevention and Control  
Part 2. Immunizations  
Chapter 1. Educational and Child Care Facility Immunization  
Requirements

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

**Cal Health & Saf Code § 120325 (2013)**

**§ 120325. Legislative intent**

In enacting this chapter, but excluding Section 120380, and in enacting Sections 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

- (a) A means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases:
- (1) Diphtheria.
  - (2) Hepatitis B.
  - (3) Haemophilus influenzae type b.
  - (4) Measles.
  - (5) Mumps.
  - (6) Pertussis (whooping cough).
  - (7) Poliomyelitis.
  - (8) Rubella.
  - (9) Tetanus.
  - (10) Varicella (chickenpox).
  - (11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the department and that a record of the immunization is made in accordance with the regulations.

(c) Exemptions from immunization for medical reasons or because of personal beliefs.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

#### **HISTORY:**

Added Stats 1995 ch 415 § 7 (SB 1360). Amended Stats 1999 ch 747 § 1 (SB 741); Stats 2010 ch 434 § 1 (AB 354), effective January 1, 2011.

(a) Former H & S C § 3380, as added Stats 1977 ch 1176 § 1, amended Stats 1978 ch 429 § 137.3, Stats 1979 ch 435 § 1.

COLORADO REVISED STATUTES

\*\*\* This document reflects changes current through all laws passed at the  
First Regular Session  
of the Sixty-Ninth General Assembly of the State of Colorado (2013) \*\*\*

TITLE 25. HEALTH  
DISEASE CONTROL  
ARTICLE 4.DISEASE CONTROL  
PART 9. SCHOOL ENTRY IMMUNIZATION

GO TO COLORADO STATUTES ARCHIVE DIRECTORY

C.R.S. 25-4-903 (2013)

25-4-903. Exemptions from immunization

- (1) (Deleted by amendment, L. 97, p. 409, § 2, effective July 1, 1997.)
- (2) It is the responsibility of the parent or legal guardian to have his or her child immunized unless the child is exempted pursuant to this section. A student shall be exempted from receiving the required immunizations in the following manner:
  - (a) By submitting to the student's school certification from a licensed physician or advanced practice nurse that the physical condition of the student is such that one or more specified immunizations would endanger his or her life or health or is medically contraindicated due to other medical conditions; or
  - (b) By submitting to the student's school a statement of exemption signed by one parent or guardian or the emancipated student or student eighteen years of age or older that the parent, guardian, or student is an adherent to a religious belief whose teachings are opposed to immunizations or that the parent or guardian or the emancipated student or student eighteen years of age or older has a personal belief that is opposed to immunizations.
- (3) The state board of health may provide, by regulation, for further exemptions to immunization based upon sound medical practice.
- (4) All information distributed to parents by school districts regarding immunization shall inform them of their rights under subsection (2) of this

section.

**HISTORY:** Source: L. 78: Entire part R&RE, p. 428, § 1, effective April 4.L. 91: (1) and (2) amended, p. 932, § 3, effective April 16.L. 93: (1) amended, p. 380, § 3, effective April 12.L. 97: Entire section amended, p. 409, § 2, effective July 1.L. 2008: (2)(a) amended, p. 132, § 17, effective January 1, 2009.

**Connecticut**  
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\*\*\* Current through 2013 Legislation \*\*\*

Title 10 Education and Culture  
Chapter 169 School Health and Sanitation

**Conn. Gen. Stat. § 10-204a (2013)**

**Sec. 10-204a. Required immunizations. Temporary waiver.**

(a) Each local or regional board of education, or similar body governing a nonpublic school or schools, shall require each child to be protected by adequate immunization against diphtheria, pertussis, tetanus, poliomyelitis, measles, mumps, rubella, hemophilus influenzae type B and any other vaccine required by the schedule for active immunization adopted pursuant to section 19a-7f before being permitted to enroll in any program operated by a public or nonpublic school under its jurisdiction. Before being permitted to enter seventh grade, a child shall receive a second immunization against measles. Any such child who (1) presents a certificate from a physician, physician assistant, advanced practice registered nurse or local health agency stating that initial immunizations have been given to such child and additional immunizations are in process under guidelines and schedules specified by the Commissioner of Public Health; or (2) presents a certificate from a physician, physician assistant or advanced practice registered nurse stating that in the opinion of such physician, physician assistant or advanced practice registered nurse **such immunization is medically contraindicated because of the physical condition of such child**; or (3) presents a statement from the parents or guardian of such child **that such immunization would be contrary to the religious beliefs of such child**; or (4) in the case of measles, mumps or rubella, presents a certificate from a physician, physician assistant or advanced practice registered nurse or from the director of health in such child's present or previous town of residence, stating that the child has had a confirmed case of such disease; or (5) in the case of hemophilus influenzae type B has passed his fifth birthday; or (6) in the case of pertussis, has passed his sixth birthday, shall be exempt from the appropriate provisions of this section. If the parents or guardians of any children are unable to pay for such immunizations, the expense of such immunizations shall, on the recommendations of such board of education, be paid by the town.

(b) The definitions of adequate immunization shall reflect the schedule for active immunization adopted pursuant to section 19a-7f and be established by regulation adopted in accordance with the provisions of chapter 54 by the Commissioner of Public Health, who shall also be responsible for providing procedures under which said boards and said similar governing bodies shall collect and report immunization data on each child to the Department of Public Health for compilation and analysis by said department.

(c) The Commissioner of Public Health may issue a temporary waiver to the schedule for active immunization for any vaccine if the National Centers for Disease Control and Prevention recognizes a nation-wide shortage of supply for such vaccine.

**HISTORY:** 1959, P.A. 588, S. 1; 1969, P.A. 42, S. 1; P.A. 73-510, S. 1, 2; P.A. 77-52, S. 1; P.A. 78-165, S. 1, 5; 78-218, S. 131; P.A. 81-139; P.A. 84-46; P.A. 91-327, S. 3, 8; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 96-244, S. 16, 63; P.A. 98-252, S. 39, 80; P.A. 11-242, S. 13.

**Delaware**  
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\*\*\* This document is current through 79 Del. Laws, Ch. 191 \*\*\*

\*\*\* Annotations current through cases posted as of December 6, 2013 \*\*\*

TITLE 14. EDUCATION  
PART I. FREE PUBLIC SCHOOLS  
CHAPTER 1. DEPARTMENT OF EDUCATION  
SUBCHAPTER II. POWERS AND DUTIES

[GO TO DELAWARE STATUTES ARCHIVE DIRECTORY](#)

14 Del. C. § 131 (2013)

**§ 131. Public school enrollees' immunization program; exemptions**

(a) The Department shall from time to time, with advice from the Division of Public Health, adopt and promulgate rules and regulations to establish an immunization program to protect pupils enrolled in public schools from certain diseases. Such rules and regulations shall include at least the following:

(1) The designation of a basic series of immunizations to be administered according to these rules;

(2) The requirement that all persons enrolling in the public schools at any age or level as authorized by this title shall have:

a. Been immunized according to the required program prior to the time of enrollment in the Delaware schools;

b. Begun the series of immunizations not later than the time of enrollment to be completed within a reasonable time as prescribed by the Department in relation to the particular immunization involved; or

c. Presented written documentation of any claim of prior immunization in the form of a statement from the immunizing physician or agency or such other form as may from time to time be approved by regulation of the Department;



(3) Provision that persons seeking to be enrollees of the public school who have not been immunized or do not meet the requirements for immunization within the time prescribed shall be denied further attendance in the public schools;

(4) Provision for written notification of the parent, or legal guardian of an enrollee, of a pending exclusion;

(5) Provision for exemption from any or all of the immunization program prescribed for a particular enrollee upon a written statement from a physician, i.e., medical doctor or doctor of osteopathy, stating that the enrollee should not receive the prescribed immunization or immunizations required in the basic series because of the reasonable certainty of a reaction detrimental to that person. A history of clinical illness of measles or rubella shall not be accepted as cause for exemption;

(6) Provision for exemption from the immunization program for an enrollee whose parents or legal guardian, because of individual religious beliefs, reject the concept of immunization. Such a request for exemption shall be supported by the affidavit herein set forth:

#### AFFIDAVIT OF RELIGIOUS BELIEF

STATE OF DELAWARE

..... COUNTY

1. (I) (We) (am) (are) the (parent(s)) (legal guardian(s)) of

.....  
Name of Child

2. (I) (We) hereby (swear) (affirm) that (I) (we) subscribe to a belief in a relation to a Supreme Being involving duties superior to those arising from any human relation.

3. (I) (We) further (swear) (affirm) that our belief is sincere and meaningful and occupies a place in (my) (our) life parallel to that filled by the orthodox belief in God.

4. This belief is not a political, sociological or philosophical view of a merely personal moral code.

5. This belief causes (me) (us) to request an exemption from the mandatory school vaccination program for.....

Name of Child

.....  
Signature of Parent(s) or Legal Guardian(s)

SWORN TO AND SUBSCRIBED before me, a registered Notary Public,  
this

..... day of ....., .....

.....(Seal)  
Notary Public

My commission expires:

.....

(7) Provision that, in the event that the Division of Public Health of the Department of Health and Social Services of the State declares that there is throughout the State or in a particular definable region of the State an epidemic of a vaccine preventable disease, any child who is enrolled in a public school and who has been exempt from the immunization program for any of the causes authorized herein shall be temporarily excluded from attendance at the public school. Rules and regulations of the Department shall provide that in the event of such temporary exclusion, it will be the responsibility of the school and the parents or legal guardian of the enrollee to assist the enrollee in keeping up with that enrollee's school work and that no academic penalty shall be suffered by the enrollee upon return to school if the student has maintained that student's relationship with the school through the assignments prescribed. An enrollee so temporarily excluded shall be authorized to return to school upon the lifting by the Division of Public Health of the epidemic declaration;

(8) Provision that in any situation where the parents or legal guardian of the enrollee states that the enrollee has been immunized, but that the record has been lost or destroyed by the provider of the immunizations, the following procedure may be carried out by that responsible person and shall be accepted by the local school district board of education or its designee in lieu of compliance with the immunization requirement:

a. The responsible person, or the school nurse, shall sign a statement that the record of the enrollee's immunization has been lost; and

b. The responsible person shall be responsible for the enrollee obtaining 1 dose of each of the vaccines prescribed in the basic series of immunization;

(9) Provision for an enrollee who has reached the statutory age of majority set by laws for the State to be responsible for that enrollee's immunization program and for execution of the request for religious exemption herein authorized;

(10) Provision that it shall be the responsibility of each Delaware public school district to administer, or prescribe a designee to administer, rules and regulations herein authorized and promulgated by the Department of Education.

(b) Appeals from the decision of the Department rendered pursuant to this section shall be to the Superior Court and shall be made in the same manner as is provided by the Superior Court Civil Rules for appeals from commissions, boards and agencies. Such appeal shall be on the record before the Department.

**HISTORY:** 62 Del. Laws, c. 404, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 14; 72 Del. Laws, c. 449, § 1; 73 Del. Laws, c. 46, § 1; 74 Del. Laws, c. 76, § 2.

**District of Columbia**  
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DISTRICT OF COLUMBIA OFFICIAL CODE  
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\*\*\* Current through December 13, 2013 and through D.C. Act 20-210  
(except D.C. Acts 20-130, 20-157, and 20-204) \*\*\*  
DIVISION VI. EDUCATION, LIBRARIES, AND PUBLIC INSTITUTIONS  
TITLE 38. EDUCATIONAL INSTITUTIONS  
SUBTITLE I. PUBLIC EDUCATION -- PRIMARY AND SECONDARY  
CHAPTER 5. IMMUNIZATION OF SCHOOL STUDENTS  
GO TO DISTRICT OF COLUMBIA CODE ARCHIVE DIRECTORY

**D.C. Code § 38-502 (2014)**

**§ 38-502. Certification of immunization required**

No student shall be admitted by a school unless the school has certification of immunization for that student, or **unless the student is exempted pursuant to § 38-506.**

**HISTORY:** Sept. 28, 1979, D.C. Law 3-20, § 3, 26 DCR 380.

**NOTES:** PRIOR CODIFICATIONS. --1981 Ed., § 31-502.  
1973 Ed., § 31-2202.

LEGISLATIVE HISTORY OF LAW 3-20. --For legislative history of D.C. Law 3-20, see Historical and Statutory Notes following § 38-501.

**D.C. Code § 38-506 (2014)**

**§ 38-506. Exemption from certification**

No certification of immunization shall be required for the admission to a school of a student:

(1) For whom the responsible person objects in good faith and in writing, to the chief official of the school, that **immunization would violate his or her religious beliefs**; or

(2) For whom the school has written certification by a private physician, his or her representative, or the public health authorities that **immunization is medically inadvisable**.

**HISTORY:** Sept. 28, 1979, D.C. Law 3-20, § 7, 26 DCR 380.

**Florida**  
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\*\*\* Statutes and Constitution are updated through the 2013 Regular Session. \*\*\*

\*\*\* Annotations are current through February 7, 2014 \*\*\*

TITLE 48. K-20 EDUCATION CODE (Chs. 1000-1013)  
CHAPTER 1003. PUBLIC K-12 EDUCATION  
PART II. SCHOOL ATTENDANCE

GO TO FLORIDA STATUTES ARCHIVE DIRECTORY

Old statute 232.032  
Fla. Stat. § 1003.22 (2013)

§ 1003.22. School-entry health examinations; immunization against communicable diseases; exemptions; duties of Department of Health

(1) Each district school board and the governing authority of each private school shall require that each child who is entitled to admittance to kindergarten, or is entitled to any other initial entrance into a public or private school in this state, present a certification of a school-entry health examination performed within 1 year before enrollment in school. Each district school board, and the governing authority of each private school, may establish a policy that permits a student up to 30 school days to present a certification of a school-entry health examination. Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, shall be given a temporary exemption for 30 school days. Any district school board that establishes such a policy shall include provisions in its local school health services plan to assist students in obtaining the health examinations. However, a child shall be exempted from the requirement of a health examination upon written request of the parent of the child stating objections to the examination on religious grounds.

(2) The State Board of Education, subject to the concurrence of the Department of Health, shall adopt rules to govern medical examinations and immunizations performed under this section.

(3) The Department of Health may adopt rules necessary to administer and enforce this section. The Department of Health, after consultation with the Department of Education, shall adopt rules governing the immunization of children against, the testing for, and the control of preventable communicable diseases. The rules must include procedures for exempting a child from immunization requirements. Immunizations shall be required for poliomyelitis, diphtheria, rubeola, rubella, pertussis, mumps, tetanus, and other communicable diseases as determined by rules of the Department of Health. The manner and frequency of administration of the immunization or testing shall conform to recognized standards of medical practice. The Department of Health shall supervise and secure the enforcement of the required immunization. Immunizations required by this section shall be available at no cost from the county health departments.

(4) Each district school board and the governing authority of each private school shall establish and enforce as policy that, prior to admittance to or attendance in a public or private school, grades kindergarten through 12, or any other initial entrance into a Florida public or private school, each child present or have on file with the school a certification of immunization for the prevention of those communicable diseases for which immunization is required by the Department of Health and further shall provide for appropriate screening of its students for scoliosis at the proper age. Such certification shall be made on forms approved and provided by the Department of Health and shall become a part of each student's permanent record, to be transferred when the student transfers, is promoted, or changes schools. The transfer of such immunization certification by Florida public schools shall be accomplished using the Florida Automated System for Transferring Education Records and shall be deemed to meet the requirements of this section.

(5) The provisions of this section shall not apply if:

(a) The parent of the child objects in writing that the administration of immunizing agents conflicts with his or her religious tenets or practices;

(b) A physician licensed under the provisions of chapter 458 or chapter 459 certifies in writing, on a form approved and provided by the Department of Health, that the child should be permanently exempt from the required immunization for medical reasons stated in writing, based upon valid clinical reasoning or evidence, demonstrating the need for the permanent exemption;

(c) A physician licensed under the provisions of chapter 458, chapter 459, or chapter 460 certifies in writing, on a form approved and provided by the Department of Health, that the child has received as many immunizations as are medically indicated at the time and is in the process of completing necessary immunizations;

(d) The Department of Health determines that, according to recognized standards of medical practice, any required immunization is unnecessary or hazardous; or

(e) An authorized school official issues a temporary exemption, for up to 30 school days, to permit a student who transfers into a new county to attend class until his or her records can be obtained. Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, shall be given a temporary exemption for 30 school days. The public school health nurse or authorized private school official is responsible for followup of each such student until proper documentation or immunizations are obtained. An exemption for 30 days may be issued for a student who enters a juvenile justice program to permit the student to attend class until his or her records can be obtained or until the immunizations can be obtained. An authorized juvenile justice official is responsible for followup of each student who enters a juvenile justice program until proper documentation or immunizations are obtained.

(6) (a) No person licensed by this state as a physician or nurse shall be liable for any injury caused by his or her action or failure to act in the administration of a vaccine or other immunizing agent pursuant to the provisions of this section if the person acts as a reasonably prudent person with similar professional training would have acted under the same or similar circumstances.

(b) No member of a district school board, or any of its employees, or member of a governing board of a private school, or any of its employees, shall be liable for any injury caused by the administration of a vaccine to any student who is required to be so immunized or for a failure to diagnose scoliosis pursuant to the provisions of this section.

(7) The parents of any child admitted to or in attendance at a Florida public or private school, grades prekindergarten through 12, are responsible for assuring that the child is in compliance with the provisions of this section.

(8) Each public school, including public kindergarten, and each private school, including private kindergarten, shall be required to provide to the county health department director or administrator annual reports of compliance with the provisions of this section. Reports shall be completed on forms provided by the Department of Health for each kindergarten, and

other grade as specified; and the reports shall include the status of children who were admitted at the beginning of the school year. After consultation with the Department of Education, the Department of Health shall establish by administrative rule the dates for submission of these reports, the grades for which the reports shall be required, and the forms to be used.

(9) The presence of any of the communicable diseases for which immunization is required by the Department of Health in a Florida public or private school shall permit the county health department director or administrator or the State Health Officer to declare a communicable disease emergency. The declaration of such emergency shall mandate that all students in attendance in the school who are not in compliance with the provisions of this section be identified by the district school board or by the governing authority of the private school; and the school health and immunization records of such children shall be made available to the county health department director or administrator. Those children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from school by the district school board, or the governing authority of the private school, until such time as is specified by the county health department director or administrator.

(10) Each district school board and the governing authority of each private school shall:

(a) Refuse admittance to any child otherwise entitled to admittance to kindergarten, or any other initial entrance into a Florida public or private school, who is not in compliance with the provisions of subsection (4).

(b) Temporarily exclude from attendance any student who is not in compliance with the provisions of subsection (4).

(11) The provisions of this section do not apply to those persons admitted to or attending adult education classes unless the adult students are under 21 years of age.

**HISTORY:** S. 117, ch. 2002-387; s. 38, ch. 2004-41; s. 6, ch. 2009-35, eff. July 1, 2009; s. 8, ch. 2009-164, eff. July 1, 2009.

**232.032 History.**--ss. 1, 2, 3, ch. 71-283; s. 39, ch. 77-147; s. 10, ch. 79-288; s. 1, ch. 80-79; s. 5, ch. 81-283; s. 97, ch. 83-217; s. 4, ch. 86-220; s. 31, ch. 91-105; s. 1, ch. 94-320; s. 1540, ch. 95-147; s. 25, ch. 97-101; s. 22, ch. 97-190; s. 14, ch. 97-237.



Georgia  
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\*\*\* Current Through the 2013 Regular Session \*\*\*

\*\*\* Annotations Current Through November 15, 2013 \*\*\*

TITLE 20. EDUCATION

CHAPTER 2. ELEMENTARY AND SECONDARY EDUCATION

ARTICLE 16. STUDENTS

PART 3. HEALTH

GO TO GEORGIA STATUTES ARCHIVE DIRECTORY

O.C.G.A. § 20-2-771 (2013)

§ 20-2-771. Immunization of students

(a) As used in this Code section, the term:

(1) "Certificate of immunization" means certification by a physician licensed under the laws of this state or by an appropriate official of a local board of health, on a form provided by the Department of Public Health, that a named person has been immunized in accordance with the applicable rules and regulations of the Department of Public Health.

(2) "Facility" means any public or private child care learning center or nursery intended for the care, supervision, or instruction of children.

(3) "Responsible official" means a county school superintendent, a school principal, or a chief operating officer of a school or facility.

(4) "School" means any public or private educational program or institution instructing children at any level or levels, kindergarten through twelfth grade, or children of ages five through 19 if grade divisions are not used.

(b) No child shall be admitted to or attend any school or facility in this state unless the child shall first have submitted a certificate of immunization to the responsible official of the school or facility. The responsible official of any school or facility may grant a 30 calendar day waiver of the certification requirement for a justified reason. The waiver may be extended from the date of first admittance or of first attendance, whichever is earlier, for up to 90 calendar days provided documentation is on file at the school or facility from the local health department or a physician specifying that an

immunization sequence has been started and that this immunization time schedule can be completed within the 90 day waiver period, provided confirmation is received during the waiver period from the health department or physician that immunizations are being received as scheduled, and provided the student under waiver is a transfer student, who is defined as a student who moves from an out-of-state school system to a Georgia school system, or a student entering kindergarten or first grade from out of state. The waiver may not be extended beyond 90 calendar days; and upon expiration of the waiver, the child shall not be admitted to or be permitted to attend the school or facility unless the child submits a certificate of immunization.

(c) The Department of Public Health shall promulgate rules and regulations specifying those diseases against which immunization is required and the standards for such immunizations. The school or facility shall maintain on file the certificates of immunization for all children attending the school or facility. All facilities shall file a report annually with the Department of Public Health. The report shall be filed on forms prepared by the Department of Public Health and shall state the number of children attending the school or facility, the number of children who did not submit certificates of immunization within the waiver period, and the number of children who are exempted from the certification requirement for medical or religious reasons.

(d) If, after examination by the local board of health or any physician licensed under the laws of this state or of any other state having comparable laws governing the licensure of physicians, any child to whom this Code section applies is found to have any physical disability which may make vaccination undesirable, a certificate to that effect issued by the local board of health or such physician licensed under the laws of this or such other state may be accepted in lieu of a certificate of immunization and shall exempt the child from the requirement of obtaining a certificate of immunization until the disability is relieved.

(e) This Code section shall not apply to a child whose parent or legal guardian objects to immunization of the child on the grounds that the immunization conflicts with the religious beliefs of the parent or guardian; however, the immunization may be required in cases when such disease is in epidemic stages. For a child to be exempt from immunization on religious grounds, the parent or guardian must first furnish the responsible official of the school or facility an affidavit in which the parent or guardian swears or affirms that the immunization required conflicts with the religious beliefs of the parent or guardian.

(f) During an epidemic or a threatened epidemic of any disease preventable by an immunization required by the Department of Public Health, children

who have not been immunized may be excluded from the school or facility until (1) they are immunized against the disease, unless they present valid evidence of prior disease, or (2) the epidemic or threat no longer constitutes a significant public health danger.

(g) The requirement of a certificate of immunization shall become effective for all children entering or attending facilities on or after April 7, 1981. The certification requirement shall apply to all children entering or attending schools:

(1) On September 1, 1981, for all such children entering or attending kindergarten or the first, ninth, tenth, eleventh, or twelfth grades, or of the equivalent ages if grade divisions are not used;

(2) On September 1, 1982, for all such children entering or attending all grades, or of all ages if grade divisions are not used.

(h) Any responsible official permitting any child to remain in a school or facility in violation of this Code section, and any parent or guardian who intentionally does not comply with this Code section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00 or by imprisonment for not more than 12 months. The Department of Public Health may adopt rules and regulations for the enforcement of this Code section. The Department of Public Health and the local board of health, or either of them, may institute a civil action in the superior court of the county in which the defendant resides for injunctive relief to prevent a threatened or continuing violation of any provision of this Code section.

**HISTORY:** Ga. L. 1880-81, p. 98, § 1; Ga. L. 1919, p. 288, § 87; Code 1933, § 32-911; Ga. L. 1946, p. 206, § 2; Ga. L. 1957, p. 455, § 1; Ga. L. 1964, p. 499, § 6; Ga. L. 1968, p. 1436, § 1; Ga. L. 1972, p. 1069, § 3; Ga. L. 1973, p. 910, §§ 1, 2; Ga. L. 1978, p. 941, § 1; Ga. L. 1979, p. 1284, § 1; Ga. L. 1981, p. 756, § 1; Ga. L. 1987, p. 319, § 1; Ga. L. 2009, p. 453, § 1-4/HB 228; Ga. L. 2011, p. 705, § 6-3/HB 214; Ga. L. 2013, p. 135, § 12/HB 354.

**Hawaii**  
LexisNexis Academic

MICHIE'S HAWAII REVISED STATUTES ANNOTATED

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\*\*\* This document is current through the 2013 Second Special Session \*\*\*

DIVISION 1. GOVERNMENT  
TITLE 18 Education  
CHAPTER 302A Education  
PART IV. Provisions Affecting System Structure  
C. Organization

[Go to the Hawaii Code Archive Directory](#)

**HRS § 302A-1156 (2013)**

**§ 302A-1156. Exemptions.**

A child may be exempted from the required immunizations:

(1) If a licensed physician or physician assistant certifies that the physical condition of the child is such that **immunizations would endanger the child's life or health**; or

(2) If any parent, custodian, guardian, or any other person in loco parent is to a child objects to immunization in writing on the grounds that **the immunization conflicts with that person's bona fide religious tenets and practices**. Upon showing the appropriate school official satisfactory evidence of the exemption, no certificate or other evidence of immunization shall be required for entry into school.

**HISTORY:** L 1996, c 89, pt of § 2; am L 2009, c 151, § 9, effective June 25, 2009.

**Idaho**  
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\*\*\* Statutes current through the 2013 Session \*\*\*

GENERAL LAWS  
TITLE 39. HEALTH AND SAFETY  
CHAPTER 48. IMMUNIZATION

[Go to the Idaho Code Archive Directory](#)

**Idaho Code § 39-4802 (2013)**

**§ 39-4802. Exemptions**

(1) Any minor child whose parent or guardian has submitted to school officials a certificate signed by a physician licensed by the state board of medicine stating that the physical condition of the child is such that all or any of the required immunizations would endanger the life or health of the child shall be exempt from the provisions of this chapter.

(2) Any minor child whose parent or guardian has submitted a signed statement to school officials stating their objections on religious or other grounds shall be exempt from the provisions of this chapter.

**HISTORY:** I.C., [§ 39-4802] § 39-4602, as added by 1978, ch. 240, § 1, p. 516; am. and redesisg. 1979, ch. 313, § 2, p. 845.

**Illinois**  
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\*\*\* Annotations current to State Cases through October 18, 2013 \*\*\*

CHAPTER 410. PUBLIC HEALTH  
COMMUNICABLE DISEASES  
COMMUNICABLE DISEASE PREVENTION ACT

[GO TO THE ILLINOIS STATUTES ARCHIVE DIRECTORY](#)

**410 ILCS 315/2 (2013)**

**[Prior to 1/1/93 cited as: Ill. Rev. Stat., Ch. 111 1/2, para. 22.12]**

**§ 410 ILCS 315/2.** [Regulations; public hearings; exemptions]

Sec. 2. The Department of Public Health shall promulgate rules and regulations requiring immunization of children against preventable communicable diseases designated by the Director. Before any regulation or amendment thereto is prescribed, the Department shall conduct a public hearing regarding such regulation. In addition, before any regulation or any amendment to a regulation is adopted, and after the Immunization Advisory Committee has made its recommendations, the State Board of Health shall conduct 3 public hearings, geographically distributed throughout the State, regarding the regulation or amendment to the regulation. At the conclusion of the hearings, the State Board of Health shall issue a report, including its recommendations, to the Director. The Director shall take into consideration any comments or recommendations made by the Board based on these hearings. The Department may prescribe additional rules and regulations for immunization of other diseases as vaccines are developed.

The provisions of this Act shall not apply if:

1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices or,

2. A physician employed by the parent or guardian to provide care and treatment to the child states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child.

**HISTORY:** Source: P.A. 85-828; 90-607, § 15.

**Indiana**  
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\*\*\* Statutes current through the 2013 First Regular Session and the 2013  
First Regular Technical Session, P.L. 1 through P.L. 293\*\*\*

\*\*\* Annotations current through January 16, 2014 for Indiana Supreme  
Court cases, through January 16, 2014 for Indiana Appellate Court cases,  
through December 31, 2013 for Indiana Tax Court cases, and through  
January 6, 2014 for Federal court cases. \*\*\*

Title 20 Education  
Article 34 Student Health and Safety Measures  
Chapter 3 Health and Safety Measures

[Go to the Indiana Code Archive Directory](#)

**Burns Ind. Code Ann. § 20-34-3-2 (2013)**

**20-34-3-2.** Religious objections to health treatment.

(a) Except as otherwise provided, a student may not be required to undergo any testing, examination, immunization, or treatment required under this chapter or IC 20-34-4 when the child's parent objects on religious grounds. A religious objection does not exempt a child from any testing, examination, immunization, or treatment required under this chapter or IC 20-34-4 unless the objection is:

- (1) made in writing;
- (2) signed by the child's parent; and
- (3) delivered to the child's teacher or to the individual who might order a test, an exam, an immunization, or a treatment absent the objection.

(b) A teacher may not be compelled to undergo any testing, examination, or treatment under this chapter or IC 20-34-4 if the teacher objects on religious grounds. A religious objection does not exempt an objecting individual from any testing, examination, or treatment required under this chapter or IC 20-34-4 unless the objection is:

- (1) made in writing;



(2) signed by the objecting individual; and

(3) delivered to the principal of the school in which the objecting individual teaches.

**HISTORY:** P.L.1-2005, § 18.

**Burns Ind. Code Ann. § 20-34-3-3 (2013)**

**20-34-3-3.** Exception where immunization may be detrimental to health.

If a physician certifies that a particular immunization required by this chapter or IC 20-34-4 is or may be detrimental to a student's health, the requirements of this chapter or IC 20-34-4 for that particular immunization is inapplicable for the student until the immunization is found no longer detrimental to the student's health.

**HISTORY:** P.L.1-2005, § 18.

**Iowa**  
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LEXIS NEXIS (R) IOWA ANNOTATED STATUTES

\*\*\* This document is current through the 2012 Supplement (2012  
Legislation) \*\*\*

\*\*\* Annotations current through August 23, 2013. \*\*\*

TITLE IV PUBLIC HEALTH  
SUBTITLE 2 HEALTH-RELATED ACTIVITIES  
CHAPTER 139A COMMUNICABLE AND INFECTIOUS DISEASES AND  
POISONINGS  
SUBCHAPTER I GENERAL PROVISIONS

GO TO CODE ARCHIVE DATABASE FOR THIS JURISDICTION

**Iowa Code § 139A.8 (2013)**

**139A.8 Immunization of children.**

1. A parent or legal guardian shall assure that the person's minor children residing in the state are adequately immunized against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, and varicella, according to recommendations provided by the department subject to the provisions of subsections 3 and 4.

2. a. A person shall not be enrolled in any licensed child care center or elementary or secondary school in Iowa without evidence of adequate immunizations against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, and varicella.

b. Evidence of adequate immunization against haemophilus influenza B and invasive pneumococcal disease shall be required prior to enrollment in any licensed child care center.

c. Evidence of hepatitis type B immunization shall be required of a child born on or after July 1, 1994, prior to enrollment in school in kindergarten or in a grade.

d. Immunizations shall be provided according to recommendations provided by the department subject to the provisions of subsections 3 and 4.

3. Subject to the provision of subsection 4, the state board of health may modify or delete any of the immunizations in subsection 2.

4. a. Immunization is not required for a person's enrollment in any elementary or secondary school or licensed child care center if either of the following applies:

(1) The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits to the admitting official a statement signed by a physician, advanced registered nurse practitioner, or physician assistant who is licensed by the board of medicine, board of nursing, or board of physician assistants that the immunizations required would be injurious to the health and well-being of the applicant or any member of the applicant's family.

(2) The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits an affidavit signed by the applicant, or if the applicant is a minor, the applicant's parent or legal guardian, stating that the immunization conflicts with the tenets and practices of a recognized religious denomination of which the applicant is an adherent or member.

b. The exemptions under this subsection do not apply in times of emergency or epidemic as determined by the state board of health and as declared by the director of public health.

5. A person may be provisionally enrolled in an elementary or secondary school or licensed child care center if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The department shall adopt rules relating to the provisional admission of persons to an elementary or secondary school or licensed child care center.

6. The local board shall furnish the department, within sixty days after the first official day of school, evidence that each person enrolled in any elementary or secondary school has been immunized as required in this section subject to subsection 4. The department shall adopt rules pursuant to chapter 17A relating to the reporting of evidence of immunization.

7. Local boards shall provide the required immunizations to children in areas where no local provision of these services exists.

8. The department, in consultation with the director of the department of education, shall adopt rules for the implementation of this section and shall provide those rules to local school boards and local boards.

**HISTORY:** 2000 Acts, ch 1066, § 8; 2003 Acts, ch 78, § 1 - 3; 2007 Acts, ch 10, § 24; 2007 Acts, ch 11, § 1; 2009 Acts, ch 41, § 263

**Kansas**  
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LexisNexis (R) KANSAS ANNOTATED STATUTES

\*\*\* This document is current through the 2012 Supplement \*\*\*

\*\*\* Annotations current through October 30, 2013 \*\*\*

Chapter 65. PUBLIC HEALTH  
Article 5. MATERNITY CENTERS AND CHILD CARE FACILITIES

GO TO KANSAS STATUTES ARCHIVE DIRECTORY

**K.S.A. § 65-508 (2012)**

**65-508.** Equipment, supplies, accommodations; competent supervision and care of children; rules and regulations; immunizations.

(a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, safety and welfare of any woman or child.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) (1) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of any woman or child served in such facilities by ensuring safe and adequate physical surroundings, healthful food, adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation, supervision and care of the residents by capable, qualified persons of sufficient number, after hour care, an adequate program of activities and services, sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills,

emergency plans, safety of outdoor playground surfaces, door locks, safety gates and transportation and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

(2) Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in day care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices.

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

**HISTORY:** L. 1919, ch. 210, § 8; R.S. 1923, 65-508; L. 1951, ch. 358, § 4; L. 1974, ch. 352, § 90; L. 1978, ch. 236, § 7; L. 1992, ch. 55, § 2; L. 1994, ch. 279, § 11; L. 1995, ch. 183, § 9; L. 1998, ch. 166, § 2; L. 2010, ch. 161, § 8; L. 2012, ch. 99, § 4; July 1.

**Kentucky**  
LexisNexis Academic

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\*\*\* Annotations current through October 4, 2013 \*\*\*

TITLE XVIII Public Health  
CHAPTER 214 Diseases  
General Provisions

[Go to the Kentucky Code Archive Directory](#)

**KRS § 214.036 (2013)**

**214.036.** Exceptions to testing or immunization requirement.

Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 shall be construed to require the testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his attending physician, such testing or immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 be construed to require the immunization of any child whose parents are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child on religious grounds. Provided, however, that in the event of an epidemic in a given area, the Cabinet for Health and Family Services may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

**HISTORY:** (Enact. Acts 1962, ch. 95, § 4; 1968, ch. 87, § 4; 1974, ch. 74, Art. VI, § 107(3); 1976, ch. 128, § 4; 1980, ch. 55, § 1, effective July 15, 1980; 1998, ch. 426, § 396, effective July 15, 1998; 2005, ch. 99, § 449, effective June 20, 2005.)

**Louisiana**  
LexisNexis Academic

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LOUISIANA REVISED STATUTES  
TITLE 17. EDUCATION  
CHAPTER 1. GENERAL SCHOOL LAW  
PART 3. PUBLIC SCHOOLS AND SCHOOL CHILDREN  
SUBPART A. GENERAL PROVISIONS

[GO TO LOUISIANA STATUTES ARCHIVE DIRECTORY](#)

**La. R.S. 17:170.1 (2013)**

**§ 17:170.1.** Immunizations of persons registering for courses at postsecondary education institutions requirements; exceptions; electronic transmission of immunization compliance reports

A. (1) Except as provided in Subsection C of this Section, for the Fall 2006 semester, quarter, or comparable academic period, a person shall provide satisfactory evidence of current immunization against meningococcal disease as a condition of registration for courses at a public or nonpublic postsecondary education institution.

(2) Except as provided in Subsection C of this Section, effective for the Spring 2007 semester, quarter, or comparable academic period and thereafter, a person entering a public or nonpublic postsecondary education institution for the first time shall provide satisfactory evidence of current immunization against meningococcal disease as a condition of his initial registration for courses at such institution.

(3) Except as provided in Subsection C of this Section, effective for the Spring 2007 semester, quarter, or comparable academic period and thereafter, a person returning to a public or nonpublic postsecondary education institution who was not registered for courses at such institution during the Fall 2006 semester, quarter, or comparable academic period and therefore was not subject to the requirement of Paragraph (1) of this

Subsection shall provide satisfactory evidence of current immunization against meningococcal disease as a condition of his initial registration for courses upon returning to such institution.

B. Every public and nonpublic postsecondary education institution shall provide detailed information on the risks associated with meningococcal disease and the availability, effectiveness, and known contraindications of any required or recommended vaccine against meningococcal disease to each person who has been admitted to such institution or to the person's parent, tutor, or legal guardian if the person is a minor.

C. The provisions of Subsection A of this Section shall not apply to the following persons:

(1) Any person who is eighteen years of age or older and who signs a waiver provided by the postsecondary education institution stating that the person has received and reviewed the information provided pursuant to Subsection B of this Section and has chosen not to be vaccinated against meningococcal disease for religious or other personal reasons.

(2) Any person who is a minor and whose parent, tutor, or legal guardian signs a waiver stating that the person has received and reviewed the information provided pursuant to Subsection B of this Section and has chosen for the student not to be vaccinated against meningococcal disease for religious or other personal reasons.

(3) Any person who has submitted a written statement from a physician stating that the procedure is contraindicated for medical reasons or, if a minor, any person whose parent, tutor, or legal guardian has submitted such a statement.

(4) Any person whose course registration is limited to correspondence courses, on-line courses, or any other courses that do not require meeting physically on campus at the postsecondary education institution for any reason or at any time. If such person subsequently registers for courses that meet physically on campus, such person shall be required to provide satisfactory evidence of current immunization against meningococcal disease as a condition of registration for such courses at such institution pursuant to Subsection A of this Section.

(5) Any person who is unable to comply with the provisions of Subsection A of this Section due to a shortage in the supply of available vaccinations against meningococcal disease.



D. Nothing in this Section shall be construed to require any public or nonpublic postsecondary education institution to provide or pay for vaccinations against meningococcal disease.

E. No person shall have a cause of action for damages for injury, loss, or death against the state or any agency, official, or employee thereof or against any postsecondary education institution, its governing authority, or any official or employee thereof for failure to provide the information required by Subsection B of this Section or for any act or omission in complying with the provisions of this Section.

F. (1) The provisions of this Section shall be implemented according to rules promulgated by the secretary of the Department of Health and Hospitals including an implementation schedule which shall be based on ensuring a sufficient availability of the required vaccine.

(2) The secretary shall establish a priority of cohorts of students who shall be required to be vaccinated in order to minimize the possibility of an outbreak of meningococcal disease. Such priority shall be established in consultation with the Board of Regents.

(3) The first priority cohorts shall be first-time freshmen and students living in on-campus residential facilities. Such students shall be required to present satisfactory evidence of current vaccination beginning with registration for the Fall 2006 semester, quarter, or comparable academic period as provided in this Section unless the secretary determines that an insufficient supply of vaccine is available. The time by which immunization shall be required for these students in the event of such an insufficient supply and for other cohorts of students to present such evidence to register for classes shall be provided in such schedule.

(4) The secretary of the Department of Health and Hospitals shall provide such rules, including the implementation schedule, to the Board of Regents by not later than August 1, 2006. The Board of Regents shall notify each postsecondary management board and, through such management boards, the chief executive officer of each postsecondary education institution of the requirements of this Section and the rules and schedule for their implementation as provided by this Section.

G. (1) Chief administrators of all postsecondary education institutions whether public or nonpublic shall:

(a) Be responsible for checking students' records to see that the provisions of this Section are enforced.

(b) Electronically transmit immunization compliance reports to the Department of Health and Hospitals, office of public health, when the institution operates an existing student-specific electronic data system, that, as of June 1, 2008, collects detailed information regarding vaccines and immunization dates electronically.

(2) The provisions of this Section which relate to the electronic transmission of data shall be implemented according to rules and regulations promulgated by the Department of Health and Hospitals in accordance with the Administrative Procedure Act.

**NOTES:**

LexisNexis 50 State Surveys, Legislation & Regulations  
Childhood & Student Vaccinations

**HISTORY:** Acts 2006, No. 251, § 1, eff. June 8, 2006; Acts 2006, No. 711, § 1, eff. June 29, 2006; Acts 2008, No. 573, § 1, eff. Aug. 15, 2008.

**Maine**  
LexisNexis Academic

Maine Revised Statutes Annotated by LexisNexis(R)

\*\*\* Current with Emergency Legislation through Chapter 427 of the 2013 First Regular Session and Chapter 434 of the First Special Session of the 126th Legislature \*\*\*

\*\*\* Annotations current through November 15, 2013 \*\*\*

TITLE 20-A. EDUCATION  
PART 3. ELEMENTARY AND SECONDARY EDUCATION  
CHAPTER 223. HEALTH, NUTRITION AND SAFETY  
SUBCHAPTER 2. IMMUNIZATION

[GO TO MAINE REVISED STATUTES ARCHIVE DIRECTORY](#)

**20-A M.R.S. § 6355 (2013)**

**§ 6355. Enrollment in school**

A superintendent may not permit any child to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, except as follows.

1. WRITTEN ASSURANCE. The parent provides a written assurance the child will be immunized within 90 days by private effort or provides, where applicable, a written consent to the child's immunization by a health officer, physician, nurse or other authorized person in public or private employ.

2. MEDICAL EXEMPTION. The parent or the child provides a physician's written statement that immunization against one or more of the diseases may be medically inadvisable.

3. PHILOSOPHICAL OR RELIGIOUS EXEMPTION. The parent states in writing a sincere religious belief that is contrary to the immunization requirement of this subchapter or an opposition to the immunization for philosophical reasons.

**SECTION HISTORY**

1983, c. 661, §8 (NEW). 2001, c. 326, §2 (AMD).

**Maryland Medical**  
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\*\*\* Statutes current through Chapter 1 of the 2014 General Assembly  
Regular Session \*\*\*

\*\*\* Annotations current through December 7, 2013 \*\*\*

HEALTH - GENERAL  
TITLE 18. DISEASE PREVENTION  
SUBTITLE 3. SPECIFIC DISEASES  
PART V. PERTUSSIS  
**Medical Exemption**

**GO TO MARYLAND STATUTES ARCHIVE DIRECTORY**

Md. HEALTH-GENERAL Code Ann. § 18-332 (2014)

§ 18-332. Adoption of guidelines

(a) Contents. -- The Department shall adopt guidelines, after notice and public hearing in accordance with the Administrative Procedure Act, setting forth:

(1) The circumstances under which pertussis vaccine should not be administered;

(2) The circumstances under which administration of the vaccine should be delayed;

(3) Any categories of potential recipients who are significantly more vulnerable to major adverse reactions than is the general population; and

(4) Procedures to notify all physicians of the content of the final guidelines and all updates issued thereafter.

(b) Exceptions. -- The administration of pertussis vaccine to an individual may not be required by any provision of law if, in the physician's medical judgment:

(1) The circumstances specified under subsection (a) (1) or (2) of this section are present; or

(2) Taking into account the information specified under subsection (a) (3) of this section as well as all other relevant information, and the risk to the potential recipient outweighs the benefits both to the potential recipient and to the public in administering the vaccine.

(c) Emergency authority of Secretary. -- Nothing in this section shall be construed to affect any emergency authority of the Secretary under any other provision of law to protect the public health.

**HISTORY:** 1984, chs. 578, 785.

**Maryland Religious**  
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\*\*\* Statutes current through Chapter 1 of the 2014 General Assembly  
Regular Session \*\*\*

\*\*\* Annotations current through December 7, 2013 \*\*\*

EDUCATION  
DIVISION II. ELEMENTARY AND SECONDARY EDUCATION  
TITLE 7. PUBLIC SCHOOLS  
SUBTITLE 4. HEALTH AND SAFETY OF STUDENTS  
**Religious Exemption**

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. EDUCATION Code Ann. § 7-403 (2014)

§ 7-403. Immunizations

(a) Rules and regulations. --

(1) In cooperation with the State Board and the Medical and Chirurgical Faculty of Maryland, the Department of Health and Mental Hygiene shall adopt rules and regulations regarding blood tests for lead poisoning required of children entering schools.

(2) In cooperation with the State Board and the Statewide Advisory Commission on Immunizations, the Department of Health and Mental Hygiene shall adopt rules and regulations regarding immunizations required of children entering schools.

(3) These rules and regulations shall:

(i) Be adopted in compliance with the Administrative Procedure Act;

(ii) Provide that any child may have the immunization administered by his personal physician; and

(iii) 1. By September 2003, in areas designated as at risk for lead poisoning, as determined under § 18-106 of the Health - General Article,

when a child enters a public prekindergarten program, kindergarten program, or first grade, require the parent or legal guardian of the child to provide documentation from a health care provider, on a form developed by the Department of Health and Mental Hygiene, certifying that the child has undergone blood testing for lead poisoning administered in accordance with the guidelines of the Centers for Disease Control and Prevention in the screening of young children for lead poisoning: Guidance for State and Local Public Health Officials (November 1997) and any subsequent guidelines; and

2. By September 2003, require a program or school to report the name, last known address, and telephone number of each child for whom certified documentation of a lead test is not provided under item 1 of this item, as determined by regulation, to the local health department in the jurisdiction where the child resides.

(4) Any requirement for the administration of pertussis vaccine shall be consistent with § 18-332(b) of the Health - General Article.

(b) Exception. --

(1) Unless the Secretary of Health and Mental Hygiene declares an emergency or an epidemic of disease, a child whose parent or guardian objects to immunization on the ground that it conflicts with the parent's or guardian's bona fide religious beliefs and practices may not be required to present a physician's certification of immunization in order to be admitted to school.

(2) The Secretary of Health and Mental Hygiene shall adopt rules and regulations for religious exemptions under this subsection.

**HISTORY:** An. Code 1957, art. 77, § 84; 1978, ch. 22, § 2; 1983, ch. 188; 1984, chs. 578, 785; 1985, ch. 253; 1987, ch. 54; 1996, ch. 10, § 16; 2000, ch. 677; 2001, ch. 29, § 6; 2002, ch. 337; 2003, ch. 178, § 1; 2004, ch. 25.





**Massachusetts**  
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PART I ADMINISTRATION OF THE GOVERNMENT  
TITLE XII EDUCATION  
Chapter 76 School Attendance  
GO TO MASSACHUSETTS CODE ARCHIVE DIRECTORY

**ALM GL ch. 76, § 15 (2013)**

**§ 15.** Vaccination and Immunization Required; Exceptions.

No child shall, except as hereinafter provided, be admitted to school except upon presentation of a physician's certificate that the child has been successfully immunized against diphtheria, pertussis, tetanus, measles and poliomyelitis and such other communicable diseases as may be specified from time to time by the department of public health.

A child shall be admitted to school upon certification by a physician that he has personally examined such child and that in his opinion the physical condition of the child is such that his health would be endangered by such vaccination or by any of such immunizations. Such certification shall be submitted at the beginning of each school year to the physician in charge of the school health program. If the physician in charge of the school health program does not agree with the opinion of the child's physician, the matter shall be referred to the department of public health, whose decision will be final.

In the absence of an emergency or epidemic of disease declared by the department of public health, no child whose parent or guardian states in writing that vaccination or immunization conflicts with his sincere religious beliefs shall be required to present said physician's certificate in order to be admitted to school.

**HISTORY:** 1855, 414, § 2; GS 1860, 41, § 8; PS 1882, 47, § 9; 1884, 64; 1885, 198; 1894, 498, §§ 9, 10; 1898, 496, § 11; RL 1902, 44, § 6; 1906, 371; 1907, 215; 1918, 117; 1938, 265, § 5; 1967, 590; 1971, 285; 1972, 161.

**Michigan**  
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Chapter 333 Health  
Act 368 of 1978 Public Health Code  
Article 9 Supportive Personal Health Services  
Part 92 Immunization

[Go to the Michigan Code Archive Directory](#)

**MCLS § 333.9215** (2013)

**§ 333.9215. Exemptions.**

Sec. 9215. (1) A child is exempt from the requirements of this part as to a specific immunization for any period of time as to which a **physician certifies that a specific immunization is or may be detrimental to the child's health or is not appropriate.**

(2) A child is exempt from this part if a parent, guardian, or person in loco parentis of the child presents a written statement to the administrator of the child's school or operator of the group program to the effect that the requirements of this part cannot be met **because of religious convictions or other objection to immunization.**

**HISTORY:** Pub Acts 1978, No. 368, Art. 9, Part 92, § 9215, imd eff July 25, 1978, by § 25211(1) eff September 30, 1978.

**Minnesota**  
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Minnesota Statutes  
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\*\*\* Annotations are current through January 13, 2014 \*\*\*

EDUCATION CODE: PREKINDERGARTEN -- GRADE 12  
CHAPTER 121A. STUDENT RIGHTS, RESPONSIBILITIES, AND  
BEHAVIOR  
STUDENT HEALTH AND SAFETY

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**Minn. Stat. § 121A.15** (2013)

**121A.15** HEALTH STANDARDS; IMMUNIZATIONS; SCHOOL CHILDREN

Subdivision 1. School and child care facility immunization requirements. -- Except as provided in subdivisions 3, 4, and 10, no person over two months old may be allowed to enroll or remain enrolled in any elementary or secondary school or child care facility in this state until the person has submitted to the administrator or other person having general control and supervision of the school or child care facility, one of the following statements:

(1) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunization, consistent with medically acceptable standards, against measles after having attained the age of 12 months, rubella, diphtheria, tetanus, pertussis, polio, mumps, haemophilus influenza type b, and hepatitis B; or

(2) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunizations, consistent with medically acceptable standards, against measles after having attained the age of 12 months, rubella, mumps, and haemophilus influenza

type b and that the person has commenced a schedule of immunizations for diphtheria, tetanus, pertussis, polio, and hepatitis B and which indicates the month and year of each immunization received.

Subd. 2. Schedule of immunizations. --No person who has commenced a treatment schedule of immunization pursuant to subdivision 1, clause (2), may remain enrolled in any child care facility, elementary, or secondary school in this state after 18 months of enrollment unless there is submitted to the administrator, or other person having general control and supervision of the school or child care facility, a statement from a physician or a public clinic which provides immunizations that the person has completed the primary schedule of immunizations for diphtheria, tetanus, pertussis, polio, and hepatitis B. The statement must include the month and year of each additional immunization received. For a child less than seven years of age, a primary schedule of immunizations shall consist of four doses of vaccine for diphtheria, tetanus, and pertussis and three doses of vaccine for poliomyelitis and hepatitis B. For a child seven years of age or older, a primary schedule of immunizations shall consist of three doses of vaccine for diphtheria, tetanus, polio, and hepatitis B.

Subd. 3. Exemptions from immunizations.

(a) If a person is at least seven years old and has not been immunized against pertussis, the person must not be required to be immunized against pertussis.

(b) If a person is at least 18 years old and has not completed a series of immunizations against poliomyelitis, the person must not be required to be immunized against poliomyelitis.

(c) If a statement, signed by a physician, is submitted to the administrator or other person having general control and supervision of the school or child care facility stating that an immunization is contraindicated for medical reasons or that laboratory confirmation of the presence of adequate immunity exists, the immunization specified in the statement need not be required.

(d) If a notarized statement signed by the minor child's parent or guardian or by the emancipated person is submitted to the administrator or other person having general control and supervision of the school or child care facility stating that the person has not been immunized as prescribed in subdivision 1 because of the conscientiously held beliefs of the parent or guardian of the minor child or of the emancipated person, the immunizations specified in the statement shall not be required. This statement must also be forwarded to the commissioner of the Department of Health.

(e) If the person is under 15 months, the person is not required to be immunized against measles, rubella, or mumps.

(f) If a person is at least five years old and has not been immunized against haemophilus influenza type b, the person is not required to be immunized against haemophilus influenza type b.

(g) If a person who is not a Minnesota resident enrolls in a Minnesota school online learning course or program that delivers instruction to the person only by computer and does not provide any teacher or instructor contact time or require classroom attendance, the person is not subject to the immunization, statement, and other requirements of this section.

Subd. 3a. Disclosures required.

(a) This paragraph applies to any written information about immunization requirements for enrollment in a school or child care facility that:

(1) is provided to a person to be immunized or enrolling or enrolled in a school or child care facility, or to the person's parent or guardian if the person is under 18 years of age and not emancipated; and

(2) is provided by the Department of Health; the Department of Education; the Department of Human Services; an immunization provider; or a school or child care facility.

Such written information must describe the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d). The information on exemptions from immunizations provided according to this paragraph must be in a font size at least equal to the font size of the immunization requirements, in the same font style as the immunization requirements, and on the same page of the written document as the immunization requirements.

(b) Before immunizing a person, an immunization provider must provide the person, or the person's parent or guardian if the person is under 18 years of age and not emancipated, with the following information in writing:

(1) a list of the immunizations required for enrollment in a school or child care facility;

(2) a description of the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d);

(3) a list of additional immunizations currently recommended by the commissioner; and

(4) in accordance with federal law, a copy of the vaccine information sheet from the federal Department of Health and Human Services that lists possible adverse reactions to the immunization to be provided.

(c) The commissioner will continue the educational campaign to providers and hospitals on vaccine safety including, but not limited to, information on the vaccine adverse events reporting system (VAERS), the federal vaccine information statements (VIS), and medical precautions and contraindications to immunizations.

(d) The commissioner will encourage providers to provide the vaccine information statements at multiple visits and in anticipation of subsequent immunizations.

(e) The commissioner will encourage providers to use existing screening for immunization precautions and contraindication materials and make proper use of the vaccine adverse events reporting system (VAERS).

(f) In consultation with groups and people identified in subdivision 12, paragraph (a), clause (1), the commissioner will continue to develop and make available patient education materials on immunizations including, but not limited to, contraindications and precautions regarding vaccines.

(g) The commissioner will encourage health care providers to use thimerosal-free vaccines when available.

#### Subd. 4. Substitute immunization statement.

(a) A person who is enrolling or enrolled in an elementary or secondary school or child care facility may substitute a statement from the emancipated person or a parent or guardian if the person is a minor child in lieu of the statement from a physician or public clinic which provides immunizations. If the statement is from a parent or guardian or emancipated person, the statement must indicate the month and year of each immunization given.

(b) In order for the statement to be acceptable for a person who is enrolling in an elementary school and who is six years of age or younger, it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; no less than four doses of vaccine for poliomyelitis, unless the third dose was given after the fourth birthday, then three doses are minimum; no less than five doses of vaccine for diphtheria, tetanus, and pertussis, unless the fourth dose was given after the fourth birthday, then four doses are minimum; and no less than three doses of vaccine for hepatitis B.

(c) In order for the statement to be consistent with subdivision 10 and acceptable for a person who is enrolling in an elementary or secondary school and is age seven through age 19, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than three doses of vaccine for poliomyelitis, diphtheria, tetanus, and hepatitis B.

(d) In order for the statement to be acceptable for a person who is enrolling in a secondary school, and who was born after 1956 and is 20 years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than one dose of vaccine for diphtheria and tetanus within the preceding ten years.

(e) In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is at least 15 months old but who has not reached five years of age, it must indicate that the following were given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; no less than one dose of vaccine for haemophilus influenza type b; no less than four doses of vaccine for diphtheria, tetanus, and pertussis; and no less than three doses of vaccine for poliomyelitis.

(f) In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is five or six years of age, it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; no less than four doses of vaccine for diphtheria, tetanus, and pertussis; and no less than three doses of vaccine for poliomyelitis.

(g) In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is seven years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination and consistent with subdivision 10, and no less than three doses of vaccine for poliomyelitis, diphtheria, and tetanus.

(h) The commissioner of health, on finding that any of the above requirements are not necessary to protect the public's health, may suspend for one year that requirement.

Subd. 5. Transfer of immunization statements. --If a person transfers from one elementary or secondary school to another, the school board of a public school district or the administrator of a nonpublic school may allow the person up to a maximum of 30 days to submit one or more of the statements as specified in subdivision 1 or 3, during which time the person may enroll in

and attend the school. If a person enrolls in a child care facility in which at least 75 percent of children in the facility participate on a onetime only or occasional basis to a maximum of 45 hours per child, per month, or is placed in a facility by a crisis nursery, the person shall be exempt from all requirements of this section for up to five consecutive days, starting from the first day of attendance.

Subd. 6. [Repealed, 1Sp2001 c 9 art 1 s 62]

Subd. 7. File on immunization records. --Each school or child care facility shall maintain on file immunization records for all persons in attendance that contain the information required by subdivisions 1, 2, and 3. The school shall maintain the records for at least five years after the person attains the age of majority. The Department of Health and the board of health, as defined in section 145A.02, subdivision 2, in whose jurisdiction the school or child care facility is located, shall have access to the files maintained pursuant to this subdivision. When a person transfers to another elementary or secondary school or child care facility, the administrator or other person having general control and supervision of the school or child care facility shall assist the person's parent or guardian in the transfer of the immunization file to the person's new school or child care facility within 30 days of the transfer. Upon the request of a public or private postsecondary educational institution, as defined in section 135A.14, the administrator or other person having general control or supervision of a school shall assist in the transfer of a student's immunization file to the postsecondary institution.

Subd. 8. Report. --The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner on all persons enrolled in the school. The superintendent of each district shall file a report with the commissioner for all persons within the district receiving instruction in a home school in compliance with sections 120A.22 and 120A.24. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, 4, and 12 to the superintendent of the district in which the person resides by October 1 of the first year of their homeschooling in Minnesota and the grade 7 year. The school report must be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local districts by the commissioner of health. The school report must state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report must be filed with the commissioner of education within 60 days of the commencement of each new school term. Upon request, a district must be given a 60-day extension for filing the school report. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary



reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health. The child care facility report must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report must be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to sections 125A.03 and 125A.06, nor for child care facilities in which at least 75 percent of children in the facility participate on a onetime only or occasional basis to a maximum of 45 hours per child, per month.

Subd. 9. Definitions. --As used in this section the following terms have the meanings given them.

(a) "Elementary or secondary school" includes any public school as defined in section 120A.05, subdivisions 9, 11, 13, and 17, or nonpublic school, church, or religious organization, or home school in which a child is provided instruction in compliance with sections 120A.22 and 120A.24.

(b) "Person enrolled in any elementary or secondary school" means a person born after 1956 and enrolled in grades kindergarten through 12, and a child with a disability receiving special instruction and services as required in sections 125A.03 to 125A.24 and 125A.65, excluding a child being provided services at the home or bedside of the child or in other states.

(c) "Child care facility" includes those child care programs subject to licensure under chapter 245A, and Minnesota Rules, chapters 9502 and 9503.

(d) "Family child care" means child care for no more than ten children at one time of which no more than six are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

(e) "Group family child care" means child care for no more than 14 children at any one time. The total number of children includes all children of any caregiver when the children are present in the residence.

Subd. 10. Requirements for immunization statements.

(a) A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(b) A person who has received at least three doses of tetanus and diphtheria toxoids, with the most recent dose given after age six and before age 11, is not required to have additional immunization against diphtheria and tetanus until ten years have elapsed from the person's most recent dose of tetanus and diphtheria toxoid.

(c) The requirement for hepatitis B vaccination shall apply to persons enrolling in kindergarten beginning with the 2000-2001 school term.

(d) The requirement for hepatitis B vaccination shall apply to persons enrolling in grade 7 beginning with the 2001-2002 school term.

Subd. 11. Commissioner of human services; continued responsibilities. -- Nothing in this section relieves the commissioner of human services of the responsibility, under chapter 245A, to inspect and assure that statements required by this section are on file at child care programs subject to licensure.

Subd. 12. Modifications to schedule.

(a) The commissioner of health may adopt modifications to the immunization requirements of this section. A proposed modification made under this subdivision must be part of the current immunization recommendations of each of the following organizations: the United States Public Health Service's Advisory Committee on Immunization Practices, the American Academy of Family Physicians, and the American Academy of Pediatrics. In proposing a modification to the immunization schedule, the commissioner must:

(1) consult with (i) the commissioner of education; the commissioner of human services; the chancellor of the Minnesota State Colleges and Universities; and the president of the University of Minnesota; and (ii) the Minnesota Natural Health Coalition, Vaccine Awareness Minnesota, Biological Education for Autism Treatment (BEAT), the Minnesota Academy of Family Physicians, the American Academy of Pediatrics-Minnesota Chapter, and the Minnesota Nurses Association; and

(2) consider the following criteria: the epidemiology of the disease, the morbidity and mortality rates for the disease, the safety and efficacy of the vaccine, the cost of a vaccination program, the cost of enforcing vaccination requirements, and a cost-benefit analysis of the vaccination.

(b) Before a proposed modification may be adopted, the commissioner must notify the chairs of the house of representatives and senate committees with jurisdiction over health policy issues. If the chairs of the relevant standing committees determine a public hearing regarding the proposed modifications is in order, the hearing must be scheduled within 60 days of receiving notice from the commissioner. If a hearing is scheduled, the commissioner may not adopt any proposed modifications until after the hearing is held.

(c) The commissioner shall comply with the requirements of chapter 14 regarding the adoption of any proposed modifications to the immunization schedule.

(d) In addition to the publication requirements of chapter 14, the commissioner of health must inform all immunization providers of any adopted modifications to the immunization schedule in a timely manner.

**HISTORY:** 1967 c 858 s 1,2; 1973 c 137 s 1-3; 1977 c 305 s 45; 1978 c 758 s 1; 1980 c 504 s 1; 1986 c 444; 1987 c 309 s 24; 1988 c 430 s 1-8; 1989 c 215 s 1-7; 1991 c 30 s 1-10; 1991 c 265 art 3 s 38; 1Sp1995 c 3 art 9 s 26; art 16 s 13; 1996 c 398 s 25; 1Sp1997 c 3 s 20-22; 1Sp1997 c 4 art 6 s 8-10; 1998 c 305 s 1-4; 1998 c 397 art 3 s 54-56,103; art 11 s 3; 1998 c 407 art 2 s 24; 1Sp2001 c 9 art 1 s 24,25; 2002 c 379 art 1 s 113; 2003 c 130 s 12; 2004 c 279 art 10 s 1,2; 1Sp2005 c 5 art 2 s 29; 2006 c 263 art 7 s 2; 2011 c 76 art 1 s 12,13; 1Sp2011 c 11 art 1 s 7

**Mississippi**  
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\*\*\* Current through the 2013 Regular Session and 1st and 2nd Extraordinary  
Sessions \*\*\*

TITLE 41. PUBLIC HEALTH  
CHAPTER 23. CONTAGIOUS AND INFECTIOUS DISEASES;  
QUARANTINE  
IN GENERAL  
[GO TO MISSISSIPPI STATUTES ARCHIVE DIRECTORY](#)

**Miss. Code Ann. § 41-23-37** (2014)

**§ 41-23-37.** Immunization practices for control of vaccine preventable diseases;  
school attendance by unvaccinated children

Whenever indicated, the state health officer shall specify such immunization practices as may be considered best for the control of vaccine preventable diseases. A listing shall be promulgated annually or more often, if necessary.

Except as provided hereinafter, it shall be unlawful for any child to attend any school, kindergarten or similar type facility intended for the instruction of children (hereinafter called "schools"), either public or private, with the exception of any legitimate home instruction program as defined in Section 37-13-91, Mississippi Code of 1972, for ten (10) or less children who are related within the third degree computed according to the civil law to the operator, unless they shall first have been vaccinated against those diseases specified by the state health officer.

**A certificate of exemption from vaccination for medical reasons may be offered on behalf of a child by a duly licensed physician and may be accepted by the local health officer when, in his opinion, such exemption will not cause undue risk to the community.**

Certificates of vaccination shall be issued by local health officers or physicians on forms specified by the Mississippi State Board of Health. These forms shall be the only acceptable means for showing compliance with these immunization requirements, and the responsible school officials shall file the form with the child's record.

If a child shall offer to enroll at a school without having completed the required vaccinations, the local health officer may grant a period of time up to ninety (90) days for such completion when, in the opinion of the health officer, such delay will not cause undue risk to the child, the school or the community. No child shall be enrolled without having had at least one (1) dose of each specified vaccine.

Within thirty (30) days after the opening of the fall term of school (on or before October 1 of each year) the person in charge of each school shall report to the county or local health officer, on forms provided by the Mississippi State Board of Health, the number of children enrolled by age or grade or both, the number fully vaccinated, the number in process of completing vaccination requirements, and the number exempt from vaccination by reason for such exemption.

Within one hundred twenty (120) days after the opening of the fall term (on or before December 31), the person in charge of each school shall certify to the local or county health officer that all children enrolled are in compliance with immunization requirements.

For the purpose of assisting in supervising the immunization status of the children the local health officer, or his designee, may inspect the children's records or be furnished certificates of immunization compliance by the school.

It shall be the responsibility of the person in charge of each school to enforce the requirements for immunization. Any child not in compliance at the end of ninety (90) days from the opening of the fall term must be suspended until in compliance, unless the health officer shall attribute the delay to lack of supply of vaccine or some other such factor clearly making compliance impossible.

Failure to enforce provisions of this section shall constitute a misdemeanor and upon conviction be punishable by fine or imprisonment or both.

**HISTORY:** SOURCES: Laws, 1978, ch. 530, 1; Laws, 1983, ch. 522, § 9, eff from and after July 1, 1983.

Missouri Medical & Religious  
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\*\*\* CURRENT THROUGH THE 97TH GENERAL ASSEMBLY, 1ST  
SPECIAL SESSION, 2013 \*\*\*

\*\*\* MOST CURRENT ANNOTATION DECEMBER 2, 2013. \*\*\*

TITLE 11. EDUCATION AND LIBRARIES (Chs. 160-186)

CHAPTER 167. PUPILS AND SPECIAL SERVICES

PUPILS

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

**§ 167.181 R.S.Mo.** (2013)

**§ 167.181.** Immunization of pupils against certain diseases compulsory -- exceptions -- records -- to be at public expense, when -- fluoride treatments administered, when -- rulemaking authority, procedure

1. The department of health and senior services, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis, diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish schools. Such rules and regulations may modify the immunizations that are required of children in this subsection. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The department of health and senior services shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school unless he has been immunized as required under the rules and regulations of the department of health and senior services, and can provide satisfactory evidence of such immunization; except that if he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to his school administrator against the immunization of the child, because of religious beliefs or medical contraindications. In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated pursuant to the provisions of this section shall be reported by the school superintendent to the department of health and senior services.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state Medicaid program, private insurance or in a manner to be determined by the department of health and senior services subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630. When a child receives his or her immunization, the treating physician may also administer the appropriate fluoride treatment to the child's teeth.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health and senior services from general revenue or from federal funds if available.

7. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

**HISTORY:** L. 1963 p. 200 § 8-18, A.L. 1972 H.B. 1255, A.L. 1973 H.B. 342, A.L. 1992 S.B. 611, A.L. 1993 H.B. 522 merged with S.B. 52, A.L. 1995 S.B. 3, A.L. 1996 H.B. 904, et al., A.L. 2001 H.B. 567 merged with S.B. 393



**Missouri Philosophical/Personal Belief**  
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**Missouri Philosophical/Personal Belief Exemption**  
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\*\*\* CURRENT THROUGH ACTS APPROVED BY THE GOVERNOR AS OF  
FEBRUARY 19, 2014, 97TH GENERAL ASSEMBLY, 2ND SESSION, 2014

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\*\*\* MOST CURRENT ANNOTATION FEBRUARY 25, 2014. \*\*\*

TITLE 12. PUBLIC HEALTH AND WELFARE (Chs. 188-215)  
CHAPTER 210. CHILD PROTECTION AND REFORMATION  
GENERAL PROVISIONS FOR CHILD PROTECTION

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

**§ 210.003 R.S.Mo.** (2014)

**§ 210.003.** Immunizations of children required, when, exceptions -- duties of administrator, report

1. No child shall be permitted to enroll in or attend any public, private or parochial day care center, preschool or nursery school caring for ten or more children unless such child has been adequately immunized against vaccine-preventable childhood illnesses specified by the department of health and senior services in accordance with recommendations of the Immunization Practices Advisory Committee (ACIP). The parent or guardian of such child shall provide satisfactory evidence of the required immunizations.

2. A child who has not completed all immunizations appropriate for his age may enroll, if:

(1) Satisfactory evidence is produced that such child has begun the process of immunization. The child may continue to attend as long as the immunization process is being accomplished according to the ACIP/Missouri department of health and senior services recommended schedule; or

(2) The parent or guardian has signed and placed on file with the day care administrator a statement of exemption which may be either of the following:

(a) A medical exemption, by which a child shall be exempted from the requirements of this section upon certification by a licensed physician that such immunization would seriously endanger the child's health or life; or

(b) A parent or guardian exemption, by which a child shall be exempted from the requirements of this section if one parent or guardian files a written objection to immunization with the day care administrator. Exemptions shall be accepted by the day care administrator when the necessary information as determined by the department of health and senior services is filed with the day care administrator by the parent or guardian. Exemption forms shall be provided by the department of health and senior services.

3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, the administrator of the facility shall follow the control measures instituted by the local health authority or the department of health and senior services or both the local health authority and the department of health and senior services, as established in Rule 19 CSR 20-20.040, "Measures for the Control of Communicable Diseases".

4. The administrator of each public, private or parochial day care center, preschool or nursery school shall cause to be prepared a record of immunization of every child enrolled in or attending a facility under his jurisdiction. An annual summary report shall be made by January fifteenth showing the immunization status of each child enrolled, using forms provided for this purpose by the department of health and senior services. The immunization records shall be available for review by department of health and senior services personnel upon request.

5. For purposes of this section, satisfactory evidence of immunization means a statement, certificate or record from a physician or other recognized health facility or personnel, stating that the required immunizations have been given to the child and verifying the type of vaccine and the month, day and year of administration.

6. Nothing in this section shall preclude any political subdivision from adopting more stringent rules regarding the immunization of preschool children.

**HISTORY:** L. 1988 S.B. 797 § 1

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\*\*\* This document is current through the 2013 Regular and Special Sessions

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\*\*\* Annotations current through October 30, 2013 \*\*\*

TITLE 20 EDUCATION

CHAPTER 5 PUPILS

PART 4 HEALTH

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20-5-405, MCA (2013)

**20-5-405** Medical or religious exemption.

(1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school, if an adult, signs and files with the governing authority, prior to the commencement of attendance each school year, a notarized affidavit on a form prescribed by the department stating that immunization is contrary to the religious tenets and practices of the signer, immunization of the person seeking to attend the school may not be required prior to attendance at the school. The statement must be maintained as part of the person's immunization records. A person who falsely claims a religious exemption is subject to the penalty for false swearing provided in 45-7-202.

(2) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school, if an adult, files with the governing authority a written statement signed by a physician licensed to practice medicine in any jurisdiction of the United States or Canada stating that the physical condition of the person seeking to attend school or medical circumstances relating to the person indicate that some or all of the required immunizations are not considered safe and indicating the specific nature and probable duration of the medical condition or circumstances that contraindicate immunization, the person is exempt from the requirements of this part to the extent indicated by the physician's statement. The statement must be maintained as part of the person's immunization records.

(3) Whenever there is good cause to believe that a person for whom an exemption has been filed under this section has a disease or has been exposed to a disease listed in 20-5-403 or will as the result of school attendance be exposed to the disease, the person may be excluded from the

school by the local health officer or the department until the excluding authority is satisfied that the person no longer risks contracting or transmitting that disease.

**HISTORY:**

En. Sec. 4, Ch. 147, L. 1979; amd. Sec. 3, Ch. 102, L. 1983; amd. Sec. 4, Ch. 644, L. 1989; amd. Sec. 299, Ch. 56, L. 2009.

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\*\*\* Current through the 2013 103rd First Session \*\*\*

\*\*\* Annotations current through September 6, 2013 \*\*\*

## CHAPTER 79. SCHOOLS

### ARTICLE 2. PROVISIONS RELATING TO STUDENTS

#### (c) ADMISSION REQUIREMENTS

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#### R.R.S. Neb. § 79-221 (2013)

#### § 79-221. Immunization; when not required

Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following:

(1) A statement signed by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her respective certification act, stating that, in the health care provider's opinion, the immunizations required would be injurious to the health and well-being of the student or any member of the student's family or household; or

(2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that immunization conflicts with the personal and sincerely followed religious beliefs of the student.

**HISTORY:** Laws 1993, LB 536, § 110; Laws 1995, LB 214, § 2; R.S.Supp., 1995, § 79-444.06; Laws 1996, LB 900, § 25; Laws 2000, LB 1115, § 88; Laws 2005, LB 256, § 97.

**Nevada**  
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\*\*\* ANNOTATIONS CURRENT THROUGH OPINIONS POSTED AS OF  
SEPTEMBER 27, 2013 \*\*\*

TITLE 34. Education.  
CHAPTER 392. Pupils.  
School Uniforms; Health and Safety

**Nev. Rev. Stat. Ann. § 392.437** (2013)

**392.437.** Immunization of pupils: Exemption if prohibited by religious belief.

A public school shall not refuse to enroll a child as a pupil because the child has not been immunized pursuant to NRS 392.435 if the parents or guardian of the child has submitted to the board of trustees of the school district or the governing body of a charter school in which the child has been accepted for enrollment a written statement indicating that their religious belief prohibits immunization of such child or ward.

**HISTORY:** 1971, p. 1040; 1997, ch. 480, § 59, p. 1876.

**New Hampshire**  
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NEW HAMPSHIRE REVISED STATUTES ANNOTATED

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\*\*\* Statutes current through Chapter 279 of the 2013 Session \*\*\*

\*\*\* Annotations current through cases decided November 26, 2013 \*\*\*

TITLE X Public Health

CHAPTER 141-C Communicable Disease

GO TO NEW HAMPSHIRE STATUTES ARCHIVE DIRECTORY

**RSA 141-C:20-c** (2013)

**141-C:20-c** Exemptions.

A child shall be exempt from immunization if:

I. A physician licensed under RSA 329, or a physician exempted under RSA 329:21, III, certifies that immunization against a particular disease may be detrimental to the child's health. The exemption shall exist only for the length of time, in the opinion of the physician, such immunization would be detrimental to the child. An exemption from immunization for one disease shall not affect other required immunizations.

II. A parent or legal guardian objects to immunization because of religious beliefs. The parent or legal guardian shall sign a notarized form stating that the child has not been immunized because of religious beliefs.

**HISTORY:** 1987, 193:7, eff. Jan. 1, 1988. 2001, 18:1, eff. Jan. 1, 2002.

**New Jersey** Medical  
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LexisNexis (TM) New Jersey Annotated Statutes

\*\*\* This section is current through New Jersey 215th Legislature \*\*\*  
Second Annual Session, P.L. 2013 c. 268 and JR 14  
State Constitution current through Nov. 2013

TITLE 18A. EDUCATION  
SUBTITLE 8A. HIGHER EDUCATION; PUBLIC AND NONPUBLIC  
INSTITUTIONS  
CHAPTER 61D. RULES AND REGULATIONS

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE  
DIRECTORY

N.J. Stat. § 18A:61D-4 (2013)

§ 18A:61D-4. Contraindication

A student who submits to the institution a written statement that an immunization is medically contraindicated shall submit a valid immunization record of other administered immunizations in accordance with regulations promulgated by the department.

**HISTORY:** L. 1988, c. 158, § 4; amended 1994, c. 48, § 83.



**New Jersey** Religious  
LexisNexis Academic

LexisNexis (TM) New Jersey Annotated Statutes

\*\*\* This section is current through New Jersey 215th Legislature \*\*\*

Second Annual Session, P.L. 2013 c. 268 and JR 14

State Constitution current through Nov. 2013

TITLE 18A. EDUCATION

SUBTITLE 8A. HIGHER EDUCATION; PUBLIC AND NONPUBLIC  
INSTITUTIONS

CHAPTER 61D. RULES AND REGULATIONS

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE

DIRECTORY

N.J. Stat. § 18A:61D-3 (2013)

§ 18A:61D-3. Conflict with religious beliefs

A student who submits to the institution of higher education a written statement that immunization conflicts with his religious beliefs shall not be required to submit a list of immunizations to the institution as a condition of admission or continued enrollment.

**HISTORY:** L. 1988, c. 158, § 3.

**New Mexico**  
LexisNexis Academic

Michie's Annotated Statutes Of New Mexico  
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\*\*\* This section is current through the First Session of the Fifty-First  
Legislature \*\*\*

CHAPTER 24. HEALTH AND SAFETY

ARTICLE 5. IMMUNIZATION

[Go to the New Mexico Code Archive Directory](#)

**N.M. Stat. Ann. § 24-5-3** (2013)

**§ 24-5-3.** Exemption from immunization

A. Any minor child through his parent or guardian may file with the health authority charged with the duty of enforcing the immunization laws:

(1) a certificate of a duly licensed physician stating that the physical condition of the child is such that immunization would seriously endanger the life or health of the child; or

(2) affidavits or written affirmation from an officer of a recognized religious denomination that such child's parents or guardians are bona fide members of a denomination whose religious teaching requires reliance upon prayer or spiritual means alone for healing; or

(3) affidavits or written affirmation from his parent or legal guardian that his religious beliefs, held either individually or jointly with others, do not permit the administration of vaccine or other immunizing agent.

B. Upon filing and approval of such certificate, affidavits or affirmation, the child is exempt from the legal requirement of immunization for a period not to exceed nine months on the basis of any one certificate, affidavits or affirmation.

**HISTORY:** 1953 Comp., § 12-3-4.3, enacted by Laws 1959, ch. 329, § 3; 1979, ch. 42, § 1.

**New York**  
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\*\*\* This section is current through 2014 released chapters 1-3 \*\*\*

PUBLIC HEALTH LAW  
ARTICLE 21. CONTROL OF ACUTE COMMUNICABLE DISEASES  
TITLE VI. POLIOMYELITIS AND OTHER DISEASES

[Go to the New York Code Archive Directory](#)

**NY CLS Pub Health § 2164** (2014)

**§ 2164.** Definitions; immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B.

1. As used in this section, unless the context requires otherwise:

a. The term "school" means and includes any public, private or parochial child caring center, day nursery, day care agency, nursery school, kindergarten, elementary, intermediate or secondary school.

b. The term "child" shall mean and include any person between the ages of two months and eighteen years.

c. The term "person in parental relation to a child" shall mean and include his father or mother, by birth or adoption, his legally appointed guardian, or his custodian. A person shall be regarded as the custodian of a child if he has assumed the charge and care of the child because the parents or legally appointed guardian of the minor have died, are imprisoned, are mentally ill, or have been committed to an institution, or because they have abandoned or deserted such child or are living outside the state or their whereabouts are unknown, or have designated the person pursuant to title fifteen-A of article five of the general obligations law as a person in parental relation to the child.

d. The term "health practitioner" shall mean any person authorized by law to administer an immunization.

2. [As amended by L 2006, ch 189 and 506]

a. Every person in parental relation to a child in this state shall have administered to such child an adequate dose or doses of an immunizing agent against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B, which meets the standards approved by the United States public health service for such biological products, and which is approved by the department under such conditions as may be specified by the public health council.

b. Every person in parental relation to a child in this state born on or after January first, nineteen hundred ninety-four and entering sixth grade or a comparable age level special education program with an unassigned grade on or after September first, two thousand seven, shall have administered to such child a booster immunization containing diphtheria and tetanus toxoids, and an acellular pertussis vaccine, which meets the standards approved by the United States public health service for such biological products, and which is approved by the department under such conditions as may be specified by the public health council.

2-a. [Repealed]

3. The person in parental relation to any such child who has not previously received such immunization shall present the child to a health practitioner and request such health practitioner to administer the necessary immunization against poliomyelitis, mumps, measles, diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella, pertussis, tetanus, pneumococcal disease, and hepatitis B as provided in subdivision two of this section.

4. If any person in parental relation to such child is unable to pay for the services of a private health practitioner, such person shall present such child to the health officer of the county in which the child resides, who shall then administer the immunizing agent without charge.

5. The health practitioner who administers such immunizing agent against poliomyelitis, mumps, measles, diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella, pertussis, tetanus, pneumococcal disease, and hepatitis B to any such child shall give a certificate of such immunization to the person in parental relation to such child.

6. In the event that a person in parental relation to a child makes application

for admission of such child to a school or has a child attending school and there exists no certificate or other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus influenzae type b (Hib) and pneumococcal disease, the principal, teacher, owner or person in charge of the school shall inform such person of the necessity to have the child immunized, that such immunization may be administered by any health practitioner, or that the child may be immunized without charge by the health officer in the county where the child resides, if such person executes a consent therefor. In the event that such person does not wish to select a health practitioner to administer the immunization, he or she shall be provided with a form which shall give notice that as a prerequisite to processing the application for admission to, or for continued attendance at, the school such person shall state a valid reason for withholding consent or consent shall be given for immunization to be administered by a health officer in the public employ, or by a school physician or nurse. The form shall provide for the execution of a consent by such person and it shall also state that such person need not execute such consent if subdivision eight or nine of this section apply to such child.

7. (a) No principal, teacher, owner or person in charge of a school shall permit any child to be admitted to such school, or to attend such school, in excess of fourteen days, without the certificate provided for in subdivision five of this section or some other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus influenzae type b (Hib) and pneumococcal disease; provided, however, such fourteen day period may be extended to not more than thirty days for an individual student by the appropriate principal, teacher, owner or other person in charge where such student is transferring from out-of-state or from another country and can show a good faith effort to get the necessary certification or other evidence of immunization.

(b) A parent, a guardian or any other person in parental relationship to a child denied school entrance or attendance may appeal by petition to the commissioner of education in accordance with the provisions of section three hundred ten of the education law.

8. If any physician licensed to practice medicine in this state certifies that such immunization may be detrimental to a child's health, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to the child's health.

8-a. Whenever a child has been refused admission to, or continued attendance at, a school as provided for in subdivision seven of this section because there exists no certificate provided for in subdivision five of this

section or other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where applicable, *Haemophilus influenzae* type b (Hib) and pneumococcal disease, the principal, teacher, owner or person in charge of the school shall:

- a. forward a report of such exclusion and the name and address of such child to the local health authority and to the person in parental relation to the child together with a notification of the responsibility of such person under subdivision two of this section and a form of consent as prescribed by regulation of the commissioner, and
- b. provide, with the cooperation of the appropriate local health authority, for a time and place at which an immunizing agent or agents shall be administered, as required by subdivision two of this section, to a child for whom a consent has been obtained. Upon failure of a local health authority to cooperate in arranging for a time and place at which an immunizing agent or agents shall be administered as required by subdivision two of this section, the commissioner shall arrange for such administration and may recover the cost thereof from the amount of state aid to which the local health authority would otherwise be entitled.

9. This section shall not apply to children whose parent, parents, or guardian hold genuine and sincere religious beliefs which are contrary to the practices herein required, and no certificate shall be required as a prerequisite to such children being admitted or received into school or attending school.

10. The commissioner may adopt and amend rules and regulations to effectuate the provisions and purposes of this section.

11. Every school shall annually provide the commissioner, on forms provided by the commissioner, a summary regarding compliance with the provisions of this section.

#### **HISTORY:**

Add, L 1966, ch 994, § 1, eff Jan 1, 1967.

Section heading, amd, L 1968, ch 1094, § 4, L 1970, ch 265, § 1, L 1971, ch 974, § 1, L 1972, ch 145, § 1, L 1976, ch 926, § 1, L 1994, ch 521, § 1 (see 1994 note below), L 1999, ch 416, § 1, eff Aug 31, 1999 (see 1999 note below).

Section heading, amd, L 2004, ch 207, § 1, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 1, par b, amd, L 1968, ch 1094, § 4, L 1979, ch 443, § 2, eff July 1, 1980.

Sub 1, par c, amd, L 1978, ch 550, § 37, eff July 24, 1978.

Sub 1, par c, amd, L 2005, ch 119, § 3, eff June 30, 2005.

Sub 1, par d, add, L 1989, ch 538, § 2, eff Jan 1, 1990.

Sub 2, amd, L 1968, ch 1094, § 4, L 1970, ch 265, § 1, L 1971, ch 974, § 1, L 1972, ch 145, § 1, L 1976, ch 926, § 2; redesignated sub 2, par (a) and amd, L 1989, ch 538, § 3; redesignated sub 2 and amd, L 1990, ch 634, § 1; amd, L 1994, ch 521, § 2 (see 1994 note below), L 1999, ch 416, § 1, eff Aug 31, 1999 (see 1999 note below).

Sub 2, par (a), redesignated sub 2, L 1990, ch 634, § 1, eff July 18, 1990.

Sub 2, par (b), add, L 1989, ch 538, § 3; deleted, L 1990, ch 634, § 1, eff July 18, 1990.

Sub 2, par a, formerly entire sub 2, amd, L 2004, ch 207, § 1, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below); so designated sub 2, par a, L 2006, ch 506, § 1, eff Sept 1, 2007.

Sub 2, par b, add, L 2006, ch 506, § 1, eff Sept 1, 2007.

Sub 2-a, add, L 2004, ch 157, § 1, eff Jan 1, 2005; repealed, L 2004, ch 430, § 1, eff Jan 1, 2005.

Sub 3, amd, L 1968, ch 1094, § 4, L 1970, ch 265, § 1, L 1971, ch 974, § 1, L 1972, ch 145, § 1, L 1976, ch 926, § 2, L 1989, ch 538, § 3, L 1994, ch 521, § 3 (see 1994 note below), L 1999, ch 416, § 1, eff Aug 31, 1999 (see 1999 note below).

Sub 3, amd, L 2004, ch 207, § 1, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 4, amd, L 1989, ch 538, § 3, eff Jan 1, 1990.

Sub 5, amd, L 1968, ch 1094, § 5, L 1970, ch 265, § 1, L 1971, ch 974, § 1, L 1972, ch 145, § 1, L 1976, ch 926, § 2, L 1989, ch 538, § 3, L 1994, ch 521, § 4 (see 1994 note below), L 1999, ch 416, § 1, eff Aug 31, 1999 (see 1999 note below).

Sub 5, amd, L 2004, ch 207, § 1, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 6, add, L 1975, ch 633, § 1; amd, L 1976, ch 926, § 2, L 1979, ch 443, § 2, L 1989, ch 538, § 3, L 1994, ch 521, § 5 (see 1994 note below), L 1999, ch 416, § 1, eff Aug 31, 1999 (see 1999 note below).

Former sub 6, amd, L 1968, ch 1094, § 4, L 1970, ch 265, § 1; redesignated sub 7, L 1975, ch 633, § 2, eff Aug 5, 1975.

Sub 6, amd, L 2004, ch 207, § 1, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 7, formerly sub 6, amd, L 1968, ch 1094, § 4, L 1970, ch 265, § 1, L 1971, ch 974, § 1, L 1972, ch 145, § 1; so designated sub 7, L 1975, ch 633, § 2; amd, L 1976, ch 926, § 2, eff March 1, 1977.

**Former sub 7, redesignated sub 8, L 1975, ch 633, § 2, eff Aug 5, 1975.**

Sub 7, par (a), formerly entire sub 7, so designated sub 7, par (a) and amd, L

1979, ch 443, § 2; amd, L 1981, ch 116, § 1, L 1989, ch 538, § 3, L 1994, ch 521, § 6 (see 1994 note below), L 1999, ch 416, § 2, eff Aug 31, 1999 (see 1999 note below).

Sub 7, par (a), amd, L 2004, ch 207, § 2, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 7, par (b), add, L 1979, ch 443, § 2, eff July 1, 1980.

Sub 8, formerly sub 7, so designated sub 8, L 1975, ch 633, § 2, eff Aug 5, 1975.

Former sub 8, redesignated sub 9, L 1975, ch 633, § 2, eff Aug 5, 1975.

Sub 8-a, add, L 1979, ch 443, § 3, eff July 1, 1980.

Sub 8-a, opening par, amd, L 1989, ch 538, § 3, L 1994, ch 521, § 7 (see 1994 note below), L 1999, ch 416, § 3, eff Aug 31, 1999 (see 1999 note below).

Sub 8-a, opening par, amd, L 2004, ch 207, § 3, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 9, formerly sub 8, so designated sub 9, L 1975, ch 633, § 2; amd, L 1989, ch 405, § 2 (see 1989 note below), L 1989, ch 538, § 3, eff Jan 1, 1990.

Former sub 9, redesignated sub 10, L 1975, ch 633, § 2, eff Aug 5, 1975.

Sub 10, formerly sub 9, add, L 1968, ch 1094, § 4; so designated sub 10, L 1975, ch 633, § 2, eff Aug 5, 1975.

Sub 11, add, L 1994, ch 521, § 8, eff July 26, 1994 (see 1994 note below).



**North Carolina** Medical  
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\*\*\* Statutes current through the 2013 Regular Session \*\*\*

\*\*\* Annotations Current through September 6, 2013 \*\*\*

CHAPTER 130A. PUBLIC HEALTH  
ARTICLE 6. COMMUNICABLE DISEASES  
PART 2. IMMUNIZATION  
[Go to the North Carolina Code Archive Directory](#)

**N.C. Gen. Stat. § 130A-156** (2013)

**§ 130A-156.** Medical exemption

The Commission for Public Health shall adopt by rule medical contraindications to immunizations required by G.S. 130A-152. If a physician licensed to practice medicine in this State certifies that a required immunization is or may be detrimental to a person's health due to the presence of one of the contraindications adopted by the Commission, the person is not required to receive the specified immunization as long as the contraindication persists. The State Health Director may, upon request by a physician licensed to practice medicine in this State, grant a medical exemption to a required immunization for a contraindication not on the list adopted by the Commission.

**HISTORY:** 1957, c. 1357, s. 1; 1959, c. 177; 1965, c. 652; 1971, c. 191; 1979, c. 56, s. 1; 1983, c. 891, s. 2; 1987, c. 782, s. 18; 1989, c. 122; 1999-110, s. 6;  
2007-182, s. 2.

**North Carolina** Religious  
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\*\*\* Statutes current through the 2013 Regular Session \*\*\*

\*\*\* Annotations Current through September 6, 2013 \*\*\*

CHAPTER 130A. PUBLIC HEALTH  
ARTICLE 6. COMMUNICABLE DISEASES  
PART 2. IMMUNIZATION  
[Go to the North Carolina Code Archive Directory](#)

**N.C. Gen. Stat. § 130A-157** (2013)

**§ 130A-157. Religious exemption**

If the bona fide religious beliefs of an adult or the parent, guardian or person in loco parentis of a child are contrary to the immunization requirements contained in this Chapter, the adult or the child shall be exempt from the requirements.

Upon submission of a written statement of the bona fide religious beliefs and opposition to the immunization requirements, the person may attend the college, university, school or facility without presenting a certificate of immunization.

**HISTORY:** 1957, c. 1357, s. 1; 1959, c. 177; 1965, c. 652; 1971, c. 191; 1979, c. 56, s. 1; 1983, c. 891, s. 2; 1985, c. 692, s. 2; 2002-179, s. 17.

**North Dakota**  
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NORTH DAKOTA CENTURY CODE  
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\*\*\* Annotations current through July 10, 2013 \*\*\*

TITLE 23 Health and Safety  
CHAPTER 23-07 Reportable Diseases  
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**N.D. Cent. Code, § 23-07-17.1 (2013)**

**23-07-17.1.** Inoculation required before admission to school.

1. A child may not be admitted to any public, private, or parochial school, or day care center, child care facility, head start program, or nursery school operating in this state or be supervised through home-based instruction unless the child's parent or guardian presents to the institution authorities a certification from a licensed physician or authorized representative of the state department of health that the child has received age appropriate immunization against diphtheria, pertussis, tetanus, measles, rubella (German measles), mumps, hepatitis B, haemophilus influenza type b (Hib), varicella (chickenpox), poliomyelitis, pneumococcal disease, meningococcal disease, rotovirus, and hepatitis A. In the case of a child receiving home-based instruction, the child's parent or legal guardian shall file the certification with the public school district in which the child resides.

2. A child may enter an institution upon submitting written proof from a licensed physician or authorized representative of the state department of health stating that the child has started receiving the required immunization or has a written consent by the child's parent or guardian for a local health service or department to administer the needed immunization without charge or has complied with the requirements for certificate of exemption as provided for in subsection 3.

3. Any minor child, through the child's parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by the child's parent or guardian whose religious, philosophical, or moral beliefs are opposed to

such immunization. The minor child is then exempt from the provisions of this section.

4. The enforcement of subsections 1, 2, and 3 is the responsibility of the designated institution authority.

5. The immunizations required, and the procedure for their administration, as prescribed by the state department of health, must conform to recognized standard medical practices in the state. The state department of health shall administer the provisions of this section and shall promulgate rules and regulations in the manner prescribed by chapter 28-32 for the purpose of administering this section.

6. When, in the opinion of the health officer, danger of an epidemic exists from any of the communicable diseases for which immunization is required under this section, the exemptions from immunization against such disease may not be recognized and children not immunized must be excluded from an institution listed in subsection 1 until, in the opinion of the health officer, the danger of the epidemic is over. The designated institution authority shall notify those parents or guardians taking legal exception to the immunization requirements that their children are excluded from school during an epidemic as determined by the state department of health.

7. When, in the opinion of the health officer, extenuating circumstances make it difficult or impossible to comply with immunization requirements, the health officer may authorize children who are not immunized to be admitted to an institution listed in subsection 1 until the health officer determines that the extenuating circumstances no longer exist. Extenuating circumstances include a shortage of vaccine and other temporary circumstances.

**HISTORY:** S.L. 1975, ch. 224, § 1; 1979, ch. 314, § 1; 1993, ch. 253, § 1; 1995, ch. 243, § 2; 1999, ch. 234, § 1; 1999, ch. 235, § 1; 2003, ch. 212, § 1; 2007, ch. 238, §§ 1, 2.

**Ohio**

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Current through Legislation passed by the 130th Ohio General Assembly  
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\*\*\* Annotations current through December 5, 2013 \*\*\*

TITLE 33. EDUCATION -- LIBRARIES  
CHAPTER 3313. BOARDS OF EDUCATION  
MISCELLANEOUS

[Go to the Ohio Code Archive Directory](#)

**ORC Ann. 3313.671** (2013)

**§ 3313.671.** Required immunizations; exceptions

(A) (1) Except as otherwise provided in division (B) of this section, no pupil, at the time of initial entry or at the beginning of each school year, to an elementary or high school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, shall be permitted to remain in school for more than fourteen days unless the pupil presents written evidence satisfactory to the person in charge of admission, that the pupil has been immunized by a method of immunization approved by the department of health pursuant to section 3701.13 of the Revised Code against mumps, poliomyelitis, diphtheria, pertussis, tetanus, rubeola, and rubella or is in the process of being immunized.

(2) Except as provided in division (B) of this section, no pupil who begins kindergarten at an elementary school subject to the state board of education's minimum standards shall be permitted to remain in school for more than fourteen days unless the pupil presents written evidence satisfactory to the person in charge of admission that the pupil has been immunized by a department of health-approved method of immunization or is in the process of being immunized against both of the following:

- (a) During or after the school year beginning in 1999, hepatitis B;
- (b) During or after the school year beginning in 2006, chicken pox.

(3) As used in divisions (A)(1) and (2) of this section, "in the process of being immunized" means the pupil has been immunized against mumps, rubeola, rubella, and chicken pox, and if the pupil has not been immunized against poliomyelitis, diphtheria, pertussis, tetanus, and hepatitis B, the pupil has received at least the first dose of the immunization sequence, and presents written evidence to the pupil's building principal or chief administrative officer of each subsequent dose required to obtain immunization at the intervals prescribed by the director of health. Any student previously admitted under the "in process of being immunized" provision and who has not complied with the immunization intervals prescribed by the director of health shall be excluded from school on the fifteenth day of the following school year. Any student so excluded shall be readmitted upon showing evidence to the student's building principal or chief administrative officer of progress on the director of health's interval schedule.

(B) (1) A pupil who has had natural rubeola, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against rubeola.

(2) A pupil who has had natural mumps, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against mumps.

(3) A pupil who has had natural chicken pox, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against chicken pox.

(4) A pupil who presents a written statement of the pupil's parent or guardian in which the parent or guardian declines to have the pupil immunized for reasons of conscience, including religious convictions, is not required to be immunized.

(5) A child whose physician certifies in writing that such immunization against any disease is medically contraindicated is not required to be immunized against that disease.

(C) As used in this division, "chicken pox epidemic" means the occurrence of cases of chicken pox in numbers greater than expected in the school's population or for a particular period of time.

Notwithstanding division (B) of this section, a school may deny admission to a pupil otherwise exempted from the chicken pox immunization requirement if the director of the state department of health notifies the school's principal or chief administrative officer that a chicken pox epidemic exists in the school's population. The denial of admission shall cease when the director notifies the principal or officer that the epidemic no longer exists.

The board of education or governing body of each school subject to this section shall adopt a policy that prescribes methods whereby the academic standing of a pupil who is denied admission during a chicken pox epidemic may be preserved.

(D) Boards of health, legislative authorities of municipal corporations, and boards of township trustees on application of the board of education of the district or proper authority of any school affected by this section, shall provide at the public expense, without delay, the means of immunization against mumps, poliomyelitis, rubeola, rubella, diphtheria, pertussis, tetanus, and hepatitis B to pupils who are not so provided by their parents or guardians.

**HISTORY:**

128 v 707 (Eff 7-7-59); 133 v S 60 (Eff 8-11-69); 133 v S 300 (Eff 11-6-69); 134 v S 450 (Eff 9-27-72); 137 v S 282 (Eff 7-7-78); 140 v H 641 (Eff 7-26-84); 147 v S 153. Eff 9-30-98; 150 v H 463, § 1, eff. 5-6-05.

**Oklahoma**

LexisNexis Academic

## OKLAHOMA STATUTES, ANNOTATED BY LEXISNEXIS (R)

\*\*\* Current through Chapter 23(End) of the First Extraordinary Session of  
the 54th Legislature (2013) \*\*\*

\*\*\* Annotations current through December 30, 2013 \*\*\*

TITLE 70. SCHOOLS  
DIVISION III. OTHER SCHOOL LAWS  
CHAPTER 15. HEALTH AND SAFETY  
IMMUNIZATION

[Go to the Oklahoma Code Archive Directory](#)

70 Okl. St. § 1210.192 (2013)

§ 1210.192. Exemptions

Any minor child, through the parent, guardian, or legal custodian of the child, may submit to the health authority charged with the enforcement of the immunization laws of this state:

1. A certificate of a licensed physician as defined in Section 725.2 of Title 59 of the Oklahoma Statutes, stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or

2. A written statement by the parent, guardian or legal custodian of the child objecting to immunization of the child; whereupon the child shall be exempt from the immunization laws of this state.

History: Added by Laws 1970, c. 225, § 2, emerg. eff. April 15, 1970. Amended by Laws 1998, c. 181, § 4, eff. Nov. 1, 1998.



**Oregon**

LexisNexis Academic

LexisNexis(R) Oregon Annotated Statutes

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\*\*\* Current through the 2012 Regular Session and 2012 Special Session \*\*\*

\*\*\* Annotations current through November 16, 2011 \*\*\*

Title 36 Public Health and Safety

Chapter 433- Disease and Condition Control; Mass Gatherings; Indoor Air

Disease Control in Schools

[GO TO OREGON REVISED STATUTES ARCHIVE DIRECTORY](#)**ORS § 433.267** (2012)**Legislative Alert:**[LEXSEE 2013 Ore. ALS 516](#) -- See section 1.[LEXSEE 2013 Ore. ALS 332](#) -- See sections 1 and 2.**433.267** Immunization of school children; rules; exceptions; effect of failure to comply.

(1) As a condition of attendance in any school or children's facility in this state, every child through grade 12 shall submit to the administrator one of the following statements unless the school or facility which the child attends already has on file a record which indicates that the child has received immunizations against the restrictable diseases prescribed by rules of the Oregon Health Authority as provided in [ORS 433.273](#):

(a) A statement signed by the parent, a practitioner of the healing arts who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the child has received;

(b) A statement signed by a physician or a representative of the local health department that the child should be exempted from receiving specified immunization because of indicated medical diagnosis; or

(c) A statement signed by the parent that the child has not been immunized as described in paragraph (a) of this subsection because the child is being reared as an adherent to a religion the teachings of which are opposed to such immunization.

(2) (a) A newly entering child or a transferring child shall be required to submit the statement described in subsection (1) of this section prior to attending the school or facility.

(b) Notwithstanding paragraph (a) of this subsection, a child transferring from a school in the United States must submit the statement required by subsection (1) of this section not later than the exclusion date set by rule of the authority.

(3) Persons who have been emancipated pursuant to ORS 419B.558 or who have reached the age of consent for medical care pursuant to ORS 109.640 may sign those statements on their own behalf otherwise requiring the signatures of parents under subsection (1) of this section.

(4) The administrator shall conduct a primary evaluation of the records submitted pursuant to subsection (1) of this section to determine whether the child is entitled to begin attendance by reason of having submitted a statement that complies with the requirements of subsection (1) of this section.

(5) If the records do not meet the initial minimum requirements established by rule, the child may not be allowed to attend until the requirements are met. If the records meet the initial minimum requirements, the child shall be allowed to attend.

(6) At the time specified by the authority by rule, records for children meeting the initial minimum requirements and records previously on file shall be reviewed for completion of requirements by the administrator to determine whether the child is entitled to continue in attendance. If the records do not comply, the administrator shall notify the local health department and shall transmit any records concerning the child's immunization status to the local health department.

(7) The local health department shall provide for a secondary evaluation of the records to determine whether the child should be excluded for noncompliance with the requirements stated in subsection (1)(a) or (b) of this section. If the child is determined to be in noncompliance, the local health department shall issue an exclusion order and shall send copies of the order to the parent or the person who is emancipated or has reached the age of majority and the administrator. On the effective date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

(8) The administrator shall readmit the child to the school or facility when in the judgment of the local health department the child is in compliance with the requirements of this section.

(9) The administrator shall be responsible for updating the statement described in subsection (1)(a) of this section as necessary to reflect the current status of the immunization of the child and the time at which the child comes into compliance with immunizations against the restrictable diseases prescribed by rules of the authority pursuant to ORS 433.273.

(10) Nothing in this section shall be construed as relieving agencies, in addition to school districts, which are involved in the maintenance and evaluation of immunization records on April 27, 1981, from continuing responsibility for these activities.

(11) All statements required by this section shall be on forms approved or provided by the authority.

(12) In lieu of signed statements from practitioners of the healing arts, the authority may accept immunization record updates using practitioner documented immunization records generated by electronic means or on unsigned practitioner letterhead if the authority determines such records are accurate.

(13) As used in this section:

(a) "Newly entering child" means a child who is initially attending:

(A) A facility in this state;

(B) A school at the entry grade level;

(C) Either a school at any grade level or a facility from homeschooling; or

(D) A school at any grade level or a facility after entering the United States from another country.

(b) "Transferring child" means a child moving from:

(A) One facility to another facility;

(B) One school in this state to another school in this state when the move is not the result of a normal progression of grade level; or

(C) A school in another state to a school in this state.

**HISTORY:** 1973 c.566 § 2; 1977 c.457 § 1; 1981 c.78 § 4; 1991 c.255 § 3;  
1993 c.546 § 139; 2001 c.900 § 158; 2005 c.343 § 3; 2009 c.595 § 651.

**Pennsylvania**  
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PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

\*\*\* Pa.C.S. documents are current through 2014 Regular Session Act 11,  
Enacted February 4, 2014.\*\*\*

\*P.S. documents are current through 2013 Regular Session Acts 88, 91, 93  
to 97, 99 to 103\*

\* Annotations current through October 16, 2013\*

PENNSYLVANIA STATUTES  
TITLE 24. EDUCATION  
CHAPTER 1. PUBLIC SCHOOL CODE OF 1949  
ARTICLE XIII. PUPILS AND ATTENDANCE  
(A) ATTENDANCE

[Go to the Pennsylvania Code Archive Directory](#)

**24 P.S. § 13-1303a** (2013)

**§ 13-1303a.** Immunization required; penalty

(a) It shall be the duty of all school directors, superintendents, principals, or other persons in charge of any public, private, parochial, or other school including kindergarten, to ascertain that every child, prior to admission to school for the first time has been immunized, as the Secretary of Health may direct, against such diseases as shall appear on a list to be made and from time to time reviewed by the Advisory Health Board. All certificates of immunization shall be issued in accordance with the rules and regulations promulgated by the Secretary of Health with the sanction and advice of the Advisory Health Board.

(b) Any person who shall fail, neglect, or refuse to comply with, or who shall violate, any of the provisions or requirements of this section, except as hereinafter provided, shall, for every such offense, upon summary conviction thereof, be sentenced to pay a fine of not less than five dollars (\$ 5) nor more than one hundred dollars (\$ 100), and in default thereof, to undergo an imprisonment in the jail of the proper county for a period not exceeding sixty (60) days. All such fines shall be paid into the treasury of the school district.

**(c) The provisions of this section shall not apply in the case of any child deemed to have a medical contraindication which may contraindicate**

immunization and so certified by a physician. Such certificates may be accepted in lieu of a certificate of immunization.

(d) The provisions of this section shall not apply in the case of any child whose parent or guardian objects in writing to such immunization on religious grounds.

**HISTORY:** Act 1974-67 (H.B. 1364), P.L. 258, § 1, approved Apr. 11, 1974, eff. immediately.

**Rhode Island**  
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\*\*\* Current through the January 2013 Session \*\*\*

\*\*\* Annotations current through June 19, 2013 \*\*\*

TITLE 16. EDUCATION  
CHAPTER 38. OFFENSES PERTAINING TO SCHOOLS [SEE TITLE 16  
CHAPTER 97 -- THE RHODE ISLAND BOARD OF EDUCATION ACT]

[Go to the Rhode Island Code Archive Directory](#)

**R.I. Gen. Laws § 16-38-2** (2013)

**§ 16-38-2.** Immunization

(a) Every person upon entering any public or private school including any college or university in this state as a pupil shall furnish to the administrative head of the school evidence that the person has been immunized against any diseases that may from time to time be prescribed by regulation of the director of health and tested for tuberculosis, or a certificate from a licensed physician stating that the **person is not a fit subject for immunization for medical reasons**, or a certificate signed by the pupil, if over eighteen (18) years of age, or by the parent or guardian stating **that immunization and/or testing for communicable diseases is contrary to that person's religious beliefs**. It shall be the responsibility of the administrative head of the school to secure compliance with these regulations.

(b) Every child more than twenty-four (24) months of age, resident in the state of Rhode Island, shall be eligible to receive the immunization against meningococcal disease. The Department of Health shall include meningococcal vaccine in the department's immunization program, established by § 23-1-44.

**HISTORY:** G.L. 1896, ch. 65, § 14; G.L. 1909, ch. 73, § 10; P.L. 1915, ch. 1201, § 1; G.L. 1923, ch. 77, § 9; P.L. 1925, ch. 644, § 1; G.L. 1938, ch. 198, § 8; G.L. 1956, § 16-38-2; P.L. 1961, ch. 133, § 4; P.L. 1968, ch. 188, § 1; P.L. 1969, ch. 138, § 1; P.L. 1979, ch. 175, § 1; P.L. 1993, ch. 253, § 1; P.L. 1993, ch. 406, § 1; P.L. 1998, ch. 34, § 1.

**South Carolina**  
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\*\*\* This document is current through all Legislation enacted in the 2013  
Session \*\*\*

\*\*\* The most current annotation is dated September 12, 2013 \*\*\*

TITLE 44. HEALTH  
CHAPTER 29. CONTAGIOUS AND INFECTIOUS DISEASES

**S.C. Code Ann. § 44-29-180** (2013)

**§ 44-29-180.** School pupils and day care center children to be vaccinated or immunized; department to monitor immunization records of children in day care; exemptions and exclusions.

(A) No superintendent of an institution of learning, no school board or principal of a school, and no owner or operator of a public or private childcare facility as defined in Section 63-13-20 may admit as a pupil or enroll or retain a child or person who cannot produce satisfactory evidence of having been vaccinated or immunized so often as directed by the Department of Health and Environmental Control. Records of vaccinations or immunizations must be maintained by the institution, school, or day care facility to which the child or person has been admitted.

(B) The Department of Health and Environmental Control shall monitor the immunization status of each child who is enrolled or retained in a licensed child day care facility or a registered church or religious child day care facility. The monitoring of day care facilities shall consist of a review of the immunization or vaccination records to insure that required immunizations are complete as recommended and routinely provided by the Department of Health and Environmental Control for all infants and children.

(C) South Carolina Department of Health and Environmental Control Regulation 61-8, as amended, "Vaccination, Screening and Immunization Regarding Contagious Diseases", and its exemptions apply to this section.

(D) A South Carolina Certificate of Special Exemption signed by the school principal, authorized representative, or day care director may be issued to transfer students while awaiting arrival of medical records from their former area of residence or to other students who have been unable to secure immunizations or documentation of immunizations already received. A

South Carolina Certificate of Special Exemption may be issued only once and is valid for only thirty calendar days from date of enrollment. At the expiration of this special exemption, the student must present a valid South Carolina Certificate of Immunization, a valid South Carolina Certificate of Medical Exemption, or a valid South Carolina Certificate of Religious Exemption.

(E) Registered family day care homes are exempt from requirements of this section.

**HISTORY:** 1962 Code § 32-694; 1952 Code § 32-694; 1942 Code § 5040; 1932 Code §§ 5012, 7363; Civ. C. '22 §§ 2323, 4495; Civ. C. '12 §§ 1582, 3061; 1905 (24) 869, 871; 1972 (57) 2767; 1993 Act No. 35, § 1.



**South Dakota**  
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88th Regular Session, including Supreme Court Rule 13-17,  
and November 2012 ballot measures  
Annotations current through February 19, 2014

TITLE 13. EDUCATION  
CHAPTER 13-28. SCHOOL ATTENDANCE IN GENERAL

GO TO SOUTH DAKOTA STATUTES ARCHIVE DIRECTORY

**S.D. Codified Laws § 13-28-7.1** (2014)

**§ 13-28-7.1.** Communicable disease tests and immunizations --  
Requirement for admission to school or early childhood program --  
Alternatives to physician certification -- Rules to require compliance and  
documentation

Any pupil entering school or an early childhood program in this state, shall, prior to admission, be required to present to the appropriate school authorities certification from a licensed physician that the child has received or is in the process of receiving adequate immunization against poliomyelitis, diphtheria, pertussis, rubeola, rubella, mumps, tetanus, and varicella, according to recommendations provided by the Department of Health. The Department of Health may modify or delete any of the required immunizations. As an alternative to the requirement for a physician's certification, the pupil may present:

(1) Certification from a licensed physician stating the physical condition of the child would be such that immunization would endanger the child's life or health; or

(2) A written statement signed by one parent or guardian that the child is an adherent to a religious doctrine whose teachings are opposed to such immunization; or

(3) A written statement signed by one parent or guardian requesting that the local health department give the immunization because the parents or

guardians lack the means to pay for such immunization.

The Department of Health may promulgate reasonable rules, in accordance with chapter 1-26, to require compliance and documentation of adequate immunization, to define appropriate certification, and to specify standard procedure.

**HISTORY:** Source: SL 1971, ch 141; 1972, ch 97; 1978, ch 114; 1992, ch 129; 2000, ch 83, § 1; 2005, ch 101, § 1.

**Tennessee**  
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Annotations current through January 10, 2014 for the Tennessee Supreme  
Court

Title 49 Education  
Chapter 6 Elementary and Secondary Education  
Part 50 Immunization of School Children

GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE  
DIRECTORY

Tenn. Code Ann. § 49-6-5001 (2013)

49-6-5001. General provisions.

(a) The commissioner of health is authorized, subject to the approval of the public health council, to designate diseases against which children must be immunized prior to attendance at any school, nursery school, kindergarten, preschool or child care facility of this state.

(b) (1) It is the responsibility of the parents or guardian of children to have their children immunized, as required by subsection (a).

(2) In the absence of an epidemic or immediate threat of an epidemic, this section shall not apply to any child whose parent or guardian files with school authorities a signed, written statement that the immunization and other preventive measures conflict with the parent's or guardian's religious tenets and practices, affirmed under the penalties of perjury.

(c) (1) No children shall be permitted to attend any public school, nursery school, kindergarten, preschool or child care facility until proof of immunization is given the admissions officer of the school, nursery school, kindergarten, preschool or child care facility except as provided in subsection (b).

(2) No child shall be denied admission to any school or school facility if the child has not been immunized due to medical reasons if the child has a written statement from the child's doctor excusing the child from the immunization.

(3) No child or youth determined to be homeless shall be denied admission to any school or school facility if the child or youth has not yet been immunized or is unable to produce immunization records due to being homeless. The enrolling school shall comply with any and all federal laws pertaining to the educational rights of homeless children and youth, including the McKinney-Vento Homeless Assistance Act, compiled in 42 U.S.C. § 1141 et seq.

(d) Each child attending any school, nursery school, kindergarten, preschool or child care facility without furnishing proof of immunization or exception under subsection (b) or (e), shall not be counted in the average daily attendance of students for the distribution of state school funds.

(e) Any immunization specified under this part shall not be required if a qualified physician certifies that administration of the immunization would be in any manner harmful to the child involved.

(f) The commissioner shall promulgate rules and regulations necessary to carry out this section.

(g) By October 1 of each year, the commissioner shall report the number of children in the state during the preceding school year who were determined to be homeless and who enrolled in public schools without being immunized or being able to produce immunization records and the average length of time required for these children to be immunized or to obtain their immunization records. The report shall be submitted to the education committees of the senate and of the house of representatives.

**HISTORY:** Acts 1967, ch. 293, §§ 1-5; 1978, ch. 922, §§ 1, 2; T.C.A., §§ 49-1765 -- 49-1769; Acts 1984, ch. 839, § 2; 1996, ch. 1079, § 183; 2006, ch. 756, § 2; 2007, ch. 57, § 1.

**Texas**

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\*\*\* This document is current through the 2013 3rd Called Session \*\*\*

\*\*\* Federal case annotations: July 9, 2013 postings on Lexis \*\*\*

\*\*\* State case annotations: July 31, 2013 postings on Lexis \*\*\*

EDUCATION CODE  
 TITLE 2. PUBLIC EDUCATION  
 SUBTITLE G. SAFE SCHOOLS  
 CHAPTER 38. HEALTH AND SAFETY  
 SUBCHAPTER A. GENERAL PROVISIONS  
GO TO TEXAS CODE ARCHIVE DIRECTORY

**Tex. Educ. Code § 38.001** (2013)

**§ 38.001.** Immunization; Requirements; Exceptions

(a) Each student shall be fully immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, except as provided by Subsection (c).

(b) [2 Versions: As amended by Acts 2007, 80th Leg., ch. 43] Subject to Subsections (b-1) and (c), the executive commissioner of the Health and Human Services Commission may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

(b) [2 Versions: As amended by Acts 2007, 80th Leg., ch. 94] Subject to Subsection (c), the Department of State Health Services may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

(b-1) Each year, the Department of State Health Services shall prepare a list of the immunizations required under this section for admission to public schools and of any additional immunizations the department recommends for school-age children. The department shall prepare the list in English and Spanish and make the list available in a manner that permits a school district to easily post the list on the district's Internet website as required by Section 38.019.

(c) Immunization is not required for a person's admission to any elementary or secondary school if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required poses a significant risk to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief; or

(2) is a member of the armed forces of the United States and is on active duty.

(c-1) An affidavit submitted under Section (c)(1)(B) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

(d) The Department of State Health Services shall provide the required immunization to children in areas where no local provision exists to provide those services.

(e) A person may be provisionally admitted to an elementary or secondary school if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The Department of State Health Services shall adopt rules relating to the provisional admission of persons to an elementary or secondary school.

(f) A person who has not received the immunizations required by this section for reasons of conscience, including because of the person's religious beliefs, may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

**HISTORY:** Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.160, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 43 (H.B. 1098), § 1, effective May 8, 2007; am. Acts 2007, 80th Leg., ch. 94 (H.B. 1059), § 2, effective May 15, 2007.

Utah  
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\*\*\* Statutes current through the 2013 2nd Special Session \*\*\*  
\*\*\* Annotations current through September 20, 2013 \*\*\*

TITLE 53A. STATE SYSTEM OF PUBLIC EDUCATION  
CHAPTER 11. STUDENTS IN PUBLIC SCHOOLS  
PART 3. IMMUNIZATION OF STUDENTS

[Go to the Utah Code Archive Directory](#)

Utah Code Ann. § 53A-11-302 (2013)

§ 53A-11-302. Immunizations required -- Exceptions -- Grounds for  
exemption from required immunizations

(1) A student may not enter school without a certificate of immunization,  
except as provided in this section.

(2) Except as provided in Section 53A-1-1001, a student who at the time of  
school enrollment has not been completely immunized against each  
specified disease may attend school under a conditional enrollment if the  
student has received one dose of each specified vaccine prior to enrollment.

(3) A student is exempt from receiving the required immunizations if there is  
presented to the appropriate official of the school one or more of the  
following:

(a) a certificate from a licensed physician stating that due to the physical  
condition of the student one or more specified immunizations would  
endanger the student's life or health;

(b) A completed form obtained at the local health department where the  
student resides, providing:

(i) the information required under Subsection 53A-11-302.5(1); and

(ii) a statement that the person has a personal belief opposed to immunizations, which is signed by one of the individuals listed in Subsection 53A-11-302(3)(c) and witnessed by the local health officer or his designee; or

(c) a statement that the person is a bona fide member of a specified, recognized religious organization whose teachings are contrary to immunizations, signed by one of the following persons:

(i) one of the student's parents;

(ii) the student's guardian;

(iii) a legal age brother or sister of a student who has no parent or guardian; or

(iv) the student, if of legal age.

**HISTORY:** C. 1953, 53A-11-302, enacted by L. 1988, ch. 2, § 155; 1992, ch. 129, § 1; 2009, ch. 277, § 3; 2010, ch. 395, § 6.



**Vermont**  
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\*\*\* Statutes current through the 2013 Session \*\*\*

\*\*\* Annotations current through December 6, 2013 \*\*\*

TITLE EIGHTEEN. HEALTH  
PART 2. PUBLIC HEALTH REGULATIONS  
CHAPTER 21. COMMUNICABLE DISEASES  
SUBCHAPTER 4. IMMUNIZATION

[Go to the Vermont Code Archive Directory](#)

**18 V.S.A. § 1122 (2013)**

**§ 1122. Exemptions**

(a) Notwithstanding subsections 1121(a) and (b) of this title, a person may remain in school or in the child care facility without a required immunization:

(1) If the person or, in the case of a minor, the person's parent or guardian presents a form created by the department and signed by a licensed health care practitioner authorized to prescribe vaccines or a health clinic stating that the person is in the process of being immunized. The person may continue to attend school or the child care facility for up to six months while the immunization process is being accomplished;

(2) If a health care practitioner, licensed to practice in Vermont and authorized to prescribe vaccines, certifies in writing that a specific immunization is or may be detrimental to the person's health or is not appropriate, provided that when a particular vaccine is no longer contraindicated, the person shall be required to receive the vaccine; or

(3) If the person or, in the case of a minor, the person's parent or guardian annually provides a signed statement to the school or child care facility on a form created by the Vermont department of health that the person, parent, or guardian:

(A) holds religious beliefs or philosophical convictions opposed to immunization;

(B) has reviewed and understands evidence-based educational material provided by the department of health regarding immunizations, including information about the risks of adverse reactions to immunization;

(C) understands that failure to complete the required vaccination schedule increases risk to the person and others of contracting or carrying a vaccine-preventable infectious disease; and

(D) understands that there are persons with special health needs attending schools and child care facilities who are unable to be vaccinated or who are at heightened risk of contracting a vaccine-preventable communicable disease and for whom such a disease could be life-threatening.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

(c) A form signed pursuant to subdivision (a)(3) of this section and the fact that such a form was signed shall not be:

(1) construed to create or deny civil liability for any person; or

(2) admissible as evidence in any civil proceeding.

**HISTORY:** Added 1979, No. 40; amended 1981, No. 18, § 3; 2007, No. 204 (Adj. Sess.), § 7; 2011, No. 157 (Adj. Sess.), § 2.

**Virginia**  
LexisNexis Academic

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\*\*\* of the General Assembly and Acts 2014, c. 1. \*\*\*  
\*\*\* Annotations current through January 24, 2014. \*\*\*

TITLE 23. EDUCATIONAL INSTITUTIONS  
CHAPTER 1. GENERAL PROVISIONS

GO TO CODE OF VIRGINIA ARCHIVE DIRECTORY

**Va. Code Ann. § 23-7.5 (2014)**

**§ 23-7.5.** Health histories required; immunizations

A. No full-time student shall be enrolled for the first time in any four-year, public institution of higher education in this Commonwealth unless he has furnished, before the beginning of the second semester or quarter of enrollment, a health history consistent with guidelines adopted by each institution's board of visitors, pursuant to the requirements of this section. Any student who fails to furnish the history will not be eligible for registration for the second semester or quarter. Any student who objects on religious grounds shall be exempt from the health history requirement set forth in this section.

B. The health history shall include documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated. Prior to enrollment, all students shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the guidelines of the American College Health Association.

C. In addition to the immunization requirements set forth in subsection B, all incoming full-time students, prior to enrollment in any public four-year institution of higher education, shall be vaccinated against (i) meningococcal disease and (ii) hepatitis B.

However, if the institution of higher education provides the student or, if the student is a minor, the student's parent or other legal representative, detailed information on the risks associated with meningococcal disease and hepatitis B and on the availability and effectiveness of any vaccine, the student or, if the student is a minor, the student's parent or other legal representative may sign a written waiver stating that he has received and reviewed the information on meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine and has chosen not to be or not to have the student vaccinated.

D. Any student shall be exempt from the immunization requirements set forth in this section who (i) objects on the grounds that administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board of Health, or (ii) presents a statement from a licensed physician which states that his physical condition is such that administration of one or more of the required immunizing agents would be detrimental to his health.

E. The Board and Commissioner of Health shall cooperate with any board of visitors seeking assistance in the implementation of this section.

F. Further, the State Council of Higher Education shall, in cooperation with the Board and Commissioner of Health, encourage private colleges and universities to develop a procedure for providing information about the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine against meningococcal disease and hepatitis B.

**HISTORY:** 1986, c. 621; 1987, c. 366; 1990, c. 273; 2001, c. 340; 2005, c. 15.

**Washington**  
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ANNOTATED REVISED CODE OF WASHINGTON

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\*\*\* Statutes current through 2013 3rd special session \*\*\*

TITLE 28A. COMMON SCHOOL PROVISIONS

CHAPTER 28A.210. HEALTH -- SCREENING AND REQUIREMENTS

GO TO REVISED CODE OF WASHINGTON ARCHIVE DIRECTORY

Rev. Code Wash. (ARCW) § 28A.210.090 (2013)

§ 28A.210.090. Immunization program -- Exemptions

(1) Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the certifications required by this section, on a form prescribed by the department of health:

(a) A written certification signed by a health care practitioner that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(b) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; or

(c) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child.

(2) (a) The form presented on or after July 22, 2011, must include a statement to be signed by a health care practitioner stating that he or she provided the signator with information about the benefits and risks of immunization to the child. The form may be signed by a health care practitioner at any time prior to the enrollment of the child in a school or licensed day care. Photocopies of the signed form or a letter from the health care practitioner referencing the child's name shall be accepted in lieu of the original form.

(b) A health care practitioner who, in good faith, signs the statement provided for in (a) of this subsection is immune from civil liability for providing the signature.

(c) Any parent or legal guardian of the child or any adult in loco parentis to the child who exempts the child due to religious beliefs pursuant to subsection (1)(b) of this section is not required to have the form provided for in (a) of this subsection signed by a health care practitioner if the parent or legal guardian demonstrates membership in a religious body or a church in which the religious beliefs or teachings of the church preclude a health care practitioner from providing medical treatment to the child.

(3) For purposes of this section, "health care practitioner" means a physician licensed under chapter 18.71 or 18.57 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A or 18.57A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

**HISTORY:** 2011 c 299 § 1; 1991 c 3 § 290; 1990 c 33 § 193; 1984 c 40 § 5; 1979 ex.s. c 118 § 4. Formerly RCW 28A.31.106.

**West Virginia**  
LexisNexis Academic

Michie's TM West Virginia Code  
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\*\*\* Text Current Through The 2013 Regular And First Extraordinary  
Sessions \*\*\*

\*\*\* Annotations Current Through May 1, 2013 \*\*\*

Chapter 16. Public Health.  
Article 3. Prevention and Control of Communicable and Other Infectious  
Diseases.

GO TO WEST VIRGINIA STATUTES ARCHIVE DIRECTORY

**W. Va. Code § 16-3-4** (2013)

**§ 16-3-4.** Compulsory immunization of school children; information disseminated; offenses; penalties.

Whenever a resident birth occurs, the state director of health shall promptly provide parents of the newborn child with information on immunizations mandated by this state or required for admission to a public school in this state.

All children entering school for the first time in this state shall have been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough. Any person who cannot give satisfactory proof of having been immunized previously or a certificate from a reputable physician showing that an immunization for any or all diphtheria, polio, rubeola, rubella, tetanus and whooping cough is impossible or improper or sufficient reason why any or all immunizations should not be done, shall be immunized for diphtheria, polio, rubeola, rubella, tetanus and whooping cough prior to being admitted in any of the schools of the state. No child or person shall be admitted or received in any of the schools of the state until he or she has been immunized as hereinafter provided or produces a certificate from a reputable physician showing that an immunization for diphtheria, polio, rubeola, rubella, tetanus and whooping cough has been done or is impossible or improper or other sufficient reason why such immunizations have not been done. Any teacher having information concerning any person who attempts to enter school for the first time without having been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping

cough shall report the names of all such persons to the county health officer. It shall be the duty of the health officer in counties having a full-time health officer to see that such persons are immunized before entering school: Provided, That persons enrolling from schools outside of the state may be provisionally enrolled under minimum criteria established by the Director of the Department of Health so that the person's immunization may be completed while missing a minimum amount of school: Provided, however, That no person shall be allowed to enter school without at least one dose of each required vaccine.

In counties where there is no full-time health officer or district health officer, the county commission or municipal council shall appoint competent physicians to do the immunizations and fix their compensation. County health departments shall furnish the biologicals for this immunization free of charge.

Health officers and physicians who shall do this immunization work shall give to all persons and children a certificate free of charge showing that they have been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, or he or she may give the certificate to any person or child whom he or she knows to have been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough. If any physician shall give any person a false certificate of immunization against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five nor more than one hundred dollars.

Any parent or guardian who refuses to permit his or her child to be immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, who cannot give satisfactory proof that the child or person has been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough previously, or a certificate from a reputable physician showing that immunization for any or all is impossible or improper, or sufficient reason why any or all immunizations should not be done, shall be guilty of a misdemeanor, and except as herein otherwise provided, shall, upon conviction, be punished by a fine of not less than ten nor more than fifty dollars for each offense.

**HISTORY:** 1887, c. 64, § 21; 1905, c. 58, § 21; Code 1923, c. 150, § 21; 1937, c. 129; 1967, c. 86; 1971, c. 69; 1973, c. 55; 1985, c. 93; 1987, c. 42.



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\*\*\* This document is current through Act 117, dated January 16, 2014 \*\*\*

\*\*\* The most current annotation is dated November 21, 2013 \*\*\*

HEALTH

CHAPTER 252. COMMUNICABLE DISEASES

[Go to the Wisconsin Code Archive Directory](#)

Wis. Stat. § 252.04 (2014)

**252.04.** Immunization program.

(1) The department shall carry out a statewide immunization program to eliminate mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis and other diseases that the department specifies by rule, and to protect against tetanus. Any person who immunizes an individual under this section shall maintain records identifying the manufacturer and lot number of the vaccine used, the date of immunization and the name and title of the person who immunized the individual. These records shall be available to the individual or, if the individual is a minor, to his or her parent, guardian or legal custodian upon request.

(2) Any student admitted to any elementary, middle, junior, or senior high school or into any child care center or nursery school shall, within 30 school days after the date on which the student is admitted, present written evidence to the school, child care center, or nursery school of having completed the first immunization for each vaccine required for the students grade and being on schedule for the remainder of the basic and recall (booster) immunization series for mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis, tetanus, and other diseases that the department specifies by rule or shall present a written waiver under sub. (3) .

(3) The immunization requirement is waived if the student, if an adult, or the students parent, guardian, or legal custodian submits a written statement to the school, child care center, or nursery school objecting to the immunization for reasons of health, religion, or personal conviction. At the time any school, child care center, or nursery school notifies a student, parent, guardian, or legal custodian of the immunization requirements, it shall inform the person in writing of the persons right to a waiver under this subsection.

(4) The student, if an adult, or the student's parent, guardian, or legal custodian shall keep the school, child care center, or nursery school informed of the student's compliance with the immunization schedule.

(5)

(a) By the 15th and the 25th school day after the date on which the student is admitted to a school, child care center, or nursery school, the school, child care center, or nursery school shall notify in writing any adult student or the parent, guardian, or legal custodian of any minor student who has not met the immunization or waiver requirements of this section. The notices shall cite the terms of those requirements and shall state that court action and forfeiture penalty could result due to noncompliance. The notices shall also explain the reasons for the immunization requirements and include information on how and where to obtain the required immunizations.

(b)

1. A school, child care center, or nursery school may exclude from the school, child care center, or nursery school any student who fails to satisfy the requirements of sub. (2) .

2. Beginning on July 1, 1993, if the department determines that fewer than 98% of the students in a child care center, nursery school, or school district who are subject to the requirements of sub. (2) have complied with sub. (2), the child care center or nursery school shall exclude any child who fails to satisfy the requirements of sub. (2) and the school district shall exclude any student enrolled in grades kindergarten to 6 who fails to satisfy the requirements of sub. (2) .

3. Beginning on July 1, 1995, if the department determines that fewer than 99% of the students in a child care center, nursery school, or school district who are subject to the requirements of sub. (2) have complied with sub. (2), the child care center or nursery school shall exclude any child who fails to satisfy the requirements of sub. (2) and the school district shall exclude any student enrolled in grades kindergarten to 6 who fails to satisfy the requirements of sub. (2) .

4. No student may be excluded from public school under this paragraph for more than 10 consecutive school days unless, prior to the 11th consecutive school day of exclusion, the school board provides the student and the student's parent, guardian or legal custodian with an additional notice, a hearing and the opportunity to appeal the exclusion, as provided under s. 120.13 (1) (c) 3.

(6) The school, child care center, or nursery school shall notify the district attorney of the county in which the student resides of any minor student who fails to present written evidence of completed immunizations or a written waiver under sub. (3) within 60 school days after being admitted to the school, child care center, or nursery school. The district attorney shall petition the court exercising jurisdiction under chs. 48 and 938 for an order directing that the student be in compliance with the requirements of this section. If the court grants the petition, the court may specify the date by which a written waiver shall be submitted under sub. (3) or may specify the terms of the immunization schedule. The court may require an adult student or the parent, guardian, or legal custodian of a minor student who refuses to submit a written waiver by the specified date or meet the terms of the immunization schedule to forfeit not more than 25 per day of violation.

(7) If an emergency arises, consisting of a substantial outbreak as determined by the department by rule of one of the diseases specified in sub. (2) at a school or in the municipality in which the school is located, the department may order the school to exclude students who are not immunized until the outbreak subsides.

(8) The department shall provide the vaccines without charge, if federal or state funds are available for the vaccines, upon request of a school district or a local health department. The department shall provide the necessary professional consultant services to carry out an immunization program, under the requirements of sub. (9), in the jurisdiction of the requesting local health department. Persons immunized may not be charged for vaccines furnished by the department.

(9)

(a) An immunization program under sub. (8) shall be supervised by a physician, selected by the school district or local health department, who shall issue written orders for the administration of immunizations that are in accordance with written protocols issued by the department.

(b) If the physician under par. (a) is not an employee of the county, city, village or school district, receives no compensation for his or her services under par. (a) and acts under par. (a) in accordance with written protocols issued by the department, he or she is a state agent of the department for the purposes of ss. 165.25 (6), 893.82 (3) and 895.46 .

(c) The department may disapprove the selection made under par. (a) or may require the removal of a physician selected.

(10) The department shall, by rule, prescribe the mechanisms for implementing and monitoring compliance with this section. The department

shall prescribe, by rule, the form that any person immunizing a student shall provide to the student under sub. (1) .

(11) Annually, by July 1, the department shall submit a report to the legislature under s. 13.172 (3) on the success of the statewide immunization program under this section.

**HISTORY:** History: 1993 a. 27 ss. 181, 470; 1995 a. 32, 77, 222; 2009 a. 185.

**Wyoming**  
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Wyoming Statutes Annotated  
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\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 2013 REGULAR  
SESSION OF THE LEGISLATURE \*\*\*

\*\*\* ANNOTATIONS CURRENT THROUGH APRIL 15, 2013 \*\*\*

Title 21 Education

Chapter 4 Pupils

Article 3. Right to Attend School

GO TO CODE OF WYOMING ARCHIVE DIRECTORY

Wyo. Stat. § 21-4-309 (2013)

§ 21-4-309. Mandatory immunizations for children attending schools;  
exceptions.

(a) Any person attending, full or part time, any public or private school, kindergarten through twelfth grade, shall within thirty (30) days after the date of school entry, provide to the appropriate school official written documentary proof of immunization. For purposes of this section, documentary proof of immunization is written certification by a private licensed physician or his representative or by any public health authority, that the person is fully immunized. Documentation shall include month, day and year of each required immunization received against vaccine preventable disease as designated by the state health authority. No school administrator shall permit a student to attend school for more than thirty (30) calendar days without documentary proof of immunization. If immunization requires a series of immunizations over a period of more than thirty (30) calendar days, the child shall be permitted to attend school while receiving continuing immunization if the school administrator receives written notification by a private licensed physician or his representative or by a public health official, specifying a written schedule for necessary immunization completion within the medically accepted time period. **Waivers shall be authorized by the state or county health officer upon submission of written evidence of religious objection or medical contraindication to the administration of any vaccine.** In the presence of an outbreak of vaccine preventable disease as determined by the state or county health authority, school children for whom a waiver has

been issued and who are not immunized against the occurring vaccine preventable disease shall be excluded from school attendance for a period of time determined by the state or county health authority, but not suspended from school as provided in W.S. 21-4-305. Children excluded from school attendance under this section shall not be counted in the aggregate number of pupils absent as defined in W.S. 21-13-101(a)(i).

(b) The school administrator shall be responsible for an audit of the immunization status of any child enrolled in the school in accordance with rules and regulations prescribed by the department of health.

(c) The written documented proof of immunization on a form provided by the state health officer shall be an integral part of the child's school record.

(d) For purposes of this section:

(i) "State health officer" means the person appointed by the director of the department of health pursuant to W.S. 9-2-103;

(ii) "County health officer" means the licensed medical officer designated by the county commissioners to serve as health officer for his county;

(iii) "Immunized" or "immunization" means initial immunization and any boosters or reimmunizations required to maintain immunization pursuant to the immunization standards and recommendations issued by the state health officer.

**HISTORY:** Laws 1979, ch. 23, § 1; 1987, ch. 3, § 1; 1991, ch. 30, § 2; ch. 221, § 1; 2004, ch. 130, § 1.

## Appendix II

### Immunization Exemption Session Law Review

#### Alabama

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MICHIE'S ALABAMA CODE ANNOTATED  
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\*\*\* Current through the end of the 2013 Regular Session \*\*\*

#### **TITLE 16 Education** **CHAPTER 30 Immunization of School Children**

Go to the Alabama Code Archive Directory  
Code of Ala. § 16-30-1 (2013)

§ 16-30-1. Designation of diseases.

The State Health Officer is authorized, subject to the approval of the State Board of Health, to designate diseases against which children must be immunized or for which they must be tested prior to, or, in certain instances after entry into the schools of Alabama.

**HISTORY:** Acts 1979, No. 79-677.

**NOTES:** Cross references.

This law is referred to in: §§ 16-30-2, 16-30-4.

RESEARCH REFERENCES

C.J.S.

78A C.J.S., Schools and School Districts, § 723 et seq.

Code of Ala. § 16-30-2 (2013)

§ 16-30-2. Parental responsibility.

It shall be the responsibility of the parents or guardians of children to have their children immunized or tested as required by Section 16-30-1.

**NOTES:**

LexisNexis 50 State Surveys, Legislation & Regulations  
Childhood & Student Vaccinations

Code of Ala. § 16-30-3 (2013)

§ 16-30-3. Exemptions.

The provisions of this chapter shall not apply if:

(1) In the absence of an epidemic or immediate threat thereof, the parent or guardian of the child shall object thereto in writing on grounds that such immunization or testing conflicts with his religious tenets and practices; or

(2) Certification by a competent medical authority providing individual exemption from the required immunization or testing is presented the admissions officer of the school.

**NOTES:** Cross references.

This law is referred to in: § 16-30-4.

Code of Ala. § 16-30-4 (2013)

§ 16-30-4. Certificate of immunization.

The boards of education and the governing authority of each private school shall require each pupil who is otherwise entitled to admittance to kindergarten or first grade, whichever is applicable, or any other entrance into an Alabama public or private school, to present a certification of immunization or testing for the prevention of those communicable diseases designated by the State Health Officer, except as provided in Section 16-30-3. Provided, however, that any student presently enrolled in a school in this state, not having been immunized upon initial entrance to school, is hereby required to present a certification of immunization as described in this section upon commencement of the next school year. Section 16-30-1 and this section shall apply only to kindergarten through 12th grade and not to the institutions of higher learning.

**HISTORY:** Acts 1979, No. 79-677.



1979 Acts 1979, No. 79-677. (Approved July 30, 1979)

1208

architecture for assistance in promoting education and research programs in architecture.

The Chairman and the Secretary of the Board shall give a surety bond in an amount no less than the previous year's budget payable to the State of Alabama and conditioned upon the faithful performance of their duties under this Act. The premium of said bond shall be paid out of the monies in the "Fund of the Board for the Registration of Architects".

**Section 13. ANNUAL REPORT TO GOVERNOR.** On or before January 1 of each year, the Board shall submit to the Governor a report of its transactions for the preceding fiscal year, together with a complete statement of receipts and disbursements of the Board for its last fiscal year, certified by the Chairman and the Secretary, and a copy of the said roster of registered architects. A copy of this report shall be filed with the Secretary of State.

**Section 14.** Sections 34-2-1 through 34-2-24 of the Code of Alabama 1975 and all laws or parts of law in conflict with this act are hereby repealed.

**Section 15.** If any part of this act is declared invalid, such declaration of invalidity shall not affect the part that remains.

**Section 16.** This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-677

S. 572—White

### AN ACT

To amend Sections 16-30-1 and 16-30-4, Code of Alabama 1975, relating to the immunization of school children, so as to require any student who has not been immunized upon initial entry into a school in Alabama, must show proof of immunization at the commencement of the next school year.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-30-1, Code of Alabama 1975, is hereby amended to read as follows:

"§ 16-30-1. The state health officer is authorized, subject to the approval of the state board of health, to designate diseases against which children must be immunized or for which they must

1209

be tested prior to, or, in certain instances after entry into the schools of Alabama."

**Section 2.** Section 16-30-4, Code of Alabama 1975, is hereby amended to read as follows:

"§ 16-30-4. The boards of education and the governing authority of each private school shall require each pupil who is otherwise entitled to admittance to kindergarten or first grade, whichever is applicable, or any other entrance into an Alabama public or private school, to present a certification of immunization or testing for the prevention of those communicable diseases designated by the state health officer, except as provided in section 16-30-3. Provided, however, that any student presently enrolled in a school in this state, not having been immunized upon initial entrance to school, is hereby required to present a certification of immunization as described in this section upon commencement of the next school year. This act shall apply only to kindergarten through 12th grade and not to the institutions of higher learning."

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-678

H. 999—Naramore, Brakefield

# AN ACT

To amend Section 2 of Act No. 115, H. 332, 1953 Regular Session (Acts of 1953, p. 164) entitled "An Act Relating to the Fourteenth Judicial Circuit; providing for the drawing and the summoning and service by mail of petit jurors in criminal, quasi-criminal and civil cases and persons drawn for jury service to compose grand juries in the Fourteenth Judicial Circuit and providing secrecy as to names and identity of persons drawn for petit or grand jury service and prescribing penalties for violation of this Act," so as to provide for jury summons by regular mail.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2 of Act No. 115, H. 332, 1953 Regular Session (Acts of 1953, p. 164), is hereby amended to read as follows:

"Section 2. After the names of the persons have been so drawn by the judge and delivered to the Clerk of the Circuit Court of the Fourteenth Judicial Circuit, said Clerk shall make a list of such persons and issue summonses to the persons so drawn and serve the

## Alaska

LexisNexis Academic

### ALASKA STATUTES

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\*\*\* Current through the 2013 Regular Session of the Twenty-Eighth State  
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\*\*\* Annotations current through opinions posted on Lexis.com as of September  
30, 2013. \*\*\*

### TITLE 14. EDUCATION, LIBRARIES, AND MUSEUMS

#### CHAPTER 45. PRIVATE AND DENOMINATIONAL SCHOOLS

#### ARTICLE 2. EXEMPT RELIGIOUS AND OTHER PRIVATE SCHOOLS

[Go to the Alaska Code Archive Directory](#)

**Alaska Stat. § 14.45.100 (2013)**

#### **Sec. 14.45.100. Exemption**

A religious or other private school that complies with AS 14.45.100 -- 14.45.130 is exempt from other provisions of law and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations.

**HISTORY:** (§ 5 ch 11 SLA 1984)

1984 (§ 5 ch 11 SLA 1984) (Effective June 6, 1984)



## LAWS OF ALASKA

1984

**Source**

HCS CSSB 354(R1s)

**Chapter No.**

11

**AN ACT**

Relating to the regulation of private schools.

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**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: March 8, 1984  
Actual Effective Date: June 6, 1984

## Chapter 11

(10) is enrolled in a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, the request for excuse is made in writing by the child's parents or guardian, and approved by the principal or administrator of the school that the child attends.

\* Sec. 4. AS 14.45.030 is amended to read:

Sec. 14.45.030. NON-EXEMPT SCHOOLS [ATTENDANCE AND ANNUAL REPORTS REQUIRED]. Teachers and others in charge of religious or other private [OR DENOMINATIONAL] schools not operated in compliance with AS 14.45.100 - 14.45.140 are not exempt from laws and regulations relating to education. Non-exempt schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

\* Sec. 5. AS 14.45 is amended by adding new sections to read:

ARTICLE 2. EXEMPT RELIGIOUS AND OTHER PRIVATE SCHOOLS.

Sec. 14.45.100. EXEMPTION. A religious or other private school that complies with AS 14.45.100 - 14.45.140 is exempt from other provisions of law and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations.

Sec. 14.45.110. REQUIREMENTS OF EXEMPT SCHOOLS. (a) The parent or guardian of a child of compulsory school age enrolled in a religious or other private school that complies with AS 14.45.100 - 14.45.140 shall file an annual notice of enrollment in the school for

## Chapter 11

1 the child with the local public school superintendent for the area in  
2 which the child resides on a form provided by the department. The  
3 form shall be signed by the parent or guardian and the chief adminis-  
4 trative officer of the school and returned to the local public school  
5 superintendent by the parent or guardian. The school shall notify the  
6 local public school superintendent within a reasonable time if the  
7 child is no longer enrolled in or attending the school.

8 (b) A religious or other private school that elects to comply  
9 with AS 14.45.100 - 14.45.140 shall maintain monthly attendance re-  
10 cords for each student enrolled in the school, shall operate on a  
11 regular schedule, excluding reasonable holidays and vacations, during  
12 at least 180 days of the year, and shall make an annual report to the  
13 commissioner of the number of students in each grade and the school  
14 calendar.

15 Sec. 14.45.120. STANDARDIZED TESTING REQUIREMENTS. (a) A  
16 religious or other private school that elects to comply with AS 14.-  
17 45.100 - 14.45.140 shall administer a nationally standardized test  
18 selected by the chief administrative officer of the school to all  
19 students enrolled in grades four, six and eight at least once each  
20 school year.

21 (b) The nationally standardized test must measure achievement in  
22 English grammar, reading, spelling, and mathematics.

23 (c) A religious or other private school that elects to comply  
24 with AS 14.45.100 - 14.45.140 shall maintain records of the results of  
25 the nationally standardized tests and the records shall be made avail-  
26 able to the parent or guardian of the student. Each school shall make  
27 composite test results for the school available annually to an autho-  
28 rized representative of the department. The composite test results of  
29 a religious or other private school operated in compliance with

## Chapter 11

1 AS 14.45.100 - 14.45.140 are not public information unless each public  
2 school

3 (1) is also required to administer a nationally standard-  
4 ized test that measures achievement in English grammar, reading,  
5 spelling, and mathematics; and

6 (2) the composite test results for each public school are  
7 public information.

8 Sec. 14.45.130. RECORDS. (a) A religious or other private  
9 school that elects to comply with AS 14.45.100 - 14.45.140 shall  
10 maintain permanent student records reflecting immunizations, physical  
11 examinations, standardized testing, academic achievement, and courses  
12 taken at the school.

13 (b) The chief administrative officer of a school that elects to  
14 comply with AS 14.45.100 - 14.45.140 shall certify to the department,  
15 under oath or by affirmation, that the records required under (a) of  
16 this section are being maintained.

17 Sec. 14.45.140. DEFINITIONS. In this chapter

18 (1) "private school" means a school that does not receive  
19 direct state or federal funding;

20 (2) "religious school" means a private school operated by a  
21 church or other religious organization that does not receive direct  
22 state or federal funding.

23 \* Sec. 6. AS 14.45.020 is repealed.  
24  
25  
26  
27  
28  
29

## Arizona

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### ARIZONA REVISED STATUTES

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\*\*\*Current through\*\*\*

\*\*\* Fifty-first Legislature, 1st Regular Session and 1st Special Session, All 2013 Legislation \*\*\*

\*\*\* Annotations current through opinions posted on Lexis.com as of October 1, 2013\*\*\*

### TITLE 15. EDUCATION

#### CHAPTER 8. SCHOOL ATTENDANCE

#### ARTICLE 6. SCHOOL IMMUNIZATION

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### A.R.S. § 15-873 (2013)

#### § 15-873. Exemptions; nonattendance during outbreak

A. Documentary proof is not required for a pupil to be admitted to school if one of the following occurs:

1. The parent or guardian of the pupil submits a signed statement to the school administrator stating that the parent or guardian has received information about immunizations provided by the department of health services and understands the risks and benefits of immunizations and the potential risks of nonimmunization and that due to **personal beliefs, the parent or guardian does not consent to the immunization of the pupil.**

2. The school administrator receives written certification that is signed by the parent or guardian and by a physician or a registered nurse practitioner, that states that **one or more of the required immunizations may be detrimental to the pupil's health** and that indicates the specific nature and probable duration of the medical condition or circumstance that precludes immunization.

B. An exemption pursuant to subsection A, paragraph 2 is only valid during the duration of the circumstance or condition that precludes immunization.



C. Pupils who lack documentary proof of immunization shall not attend school during outbreak periods of communicable immunization-preventable diseases as determined by the department of health services or local health department. The department of health services or local health department shall transmit notice of this determination to the school administrator responsible for the exclusion of the pupils.

**HISTORY:** Laws 2007, Ch. 97, § 14.

2007 Laws 2007, Ch. 97, § 14. (Approved April 18, 2007)

FIRST REGULAR SESSION—2007

Ch. 97, § 1

5. Insurance brokers, adjusters and agents licensed by this state in performing their duties in connection with insurance transacted by them.

6. The legal owner of personal property that has been sold under a sales agreement in making investigations relating to the sales agreement.

7. A member of the news media and its employees when engaged in obtaining information for the purpose of disseminating news to the public.

8. Public service corporations engaged in transmitting messages, furnishing public telegraph or telephone service or investigating the use or misuse of their equipment and facilities or the use or misuse of the equipment and facilities of any connecting telecommunications company.

9. Private process servers who are duly registered and performing their duties pursuant to the Arizona rules of civil procedure.

10. A person, firm or corporation, or an employee of a person, firm or corporation, that, for any consideration, observes consumer purchases of products or services in the public environments of a business establishment for the purpose of evaluating customer service, operational procedures, cleanliness, product quality and availability if all of the following apply:

(a) The information is obtained from questionnaires that the business establishment approves in advance of use.

(b) The obtained information is used for employee training or incentives.

(c) The obtained information is not used for prosecution of an employee.

(d) The business establishment does not use a single evaluation as the only basis for an employee's termination from employment.

11. A person or entity THAT IS performing duties pursuant to statute AND that is certified or registered by the supreme court.

Approved by the Governor April 18, 2007.

Filed in the Office of the Secretary of State April 18, 2007.

## REGISTERED NURSE PRACTITIONERS

### CHAPTER 97

#### S. B. 1100

AN ACT AMENDING SECTIONS 3-662, 8-105, 8-134, 8-822, 11-821, 13-3612, 14-5310, 14-5314, 14-5315, 15-346, 15-843, 15-871, 15-872, 15-873, 20-142, 20-826, 20-826.03, 20-833, 20-841.04, 20-1051, 20-1057, 20-1057.01, 20-1057.10, 20-1342, 20-1342.05, 20-1376, 20-1402, 20-1402.02, 20-1404, 20-1404.02, 20-1406, 20-1631, 20-2323, 20-2327, 20-2332, 21-202, 28-447, 28-909, 28-2409, 28-3005, 28-3167, 36-2907.01, 36-2912.03, 44-133.01 AND 46-454, ARIZONA REVISED STATUTES; RELATING TO REGISTERED NURSE PRACTITIONERS.

Be it enacted by the Legislature of the State of Arizona:

**Section 1.** Section 3-662, Arizona Revised Statutes, is amended to read:

**3-662. Manufacture or sale not prohibited**

This article does not prohibit the manufacture or sale of:

1. Trade products complying with this chapter.

2. Proprietary foods containing milk or skim milk to which have been added any fat or oil other than milk fat ~~when such~~ IF THESE foods are clearly labeled to show their composition and the fact that they are to be sold exclusively for use as directed by physicians A PHYSICIAN OR A REGISTERED NURSE PRACTITIONER for the feeding of invalids and children.

B. A pupil shall not be allowed to attend school without submitting documentary proof to the school administrator unless the pupil is exempted from immunization pursuant to section 15-873.

C. Each public school shall make full disclosure of the requirements and exemptions as prescribed in ~~sections 15-872~~ THIS SECTION and SECTION 15-873.

D. On enrollment, the school administrator shall suspend that pupil if the administrator does not have documentary proof and the pupil is not exempted from immunization pursuant to section 15-873.

E. Notwithstanding subsections B and D of this section, a pupil may be admitted to or allowed to attend a school if the pupil has received at least one dose of each of the required immunizations prescribed pursuant to section 36-672 and has established a schedule for the completion of required immunizations. The parent, guardian or person in loco parentis of a pupil shall present to the school administrator documentary proof of the immunizations received and a schedule prepared by the pupil's physician OR REGISTERED NURSE PRACTITIONER or a health agency for completion of additional required immunizations.

F. The school administrator shall review the school immunization record for each pupil admitted or allowed to continue attendance pursuant to subsection E of this section at least twice each school year until the pupil receives all of the required immunizations and shall suspend a pupil as prescribed in subsection G of this section who fails to comply with the immunization schedule. Immunizations received by a pupil shall be entered in the pupil's school immunization record.

G. Unless proof of an exemption from immunization pursuant to section 15-873 is provided, a pupil who is admitted or allowed to continue to attend and who fails to comply with the immunization schedule within the time intervals specified by the schedule shall be suspended from school attendance until documentary proof of the administration of another dose of each appropriate immunizing agent is provided to the school administrator.

H. The provisions of subsections B, D and E of this section do not apply to homeless pupils until the fifth calendar day after enrollment.

I. A school and its employees are immune from civil liability for decisions concerning the admission, readmission and suspension of a pupil ~~which~~ THAT are based on a good faith implementation of the requirements of this article.

**Sec. 14.** Section 15-873, Arizona Revised Statutes, is amended to read:

**15-873. Exemptions; nonattendance during outbreak**

A. Documentary proof is not required for a pupil to be admitted to school if one of the following occurs:

1. The parent or guardian of the pupil submits a signed statement to the school administrator stating that the parent or guardian has received information about immunizations provided by the department of health services; ~~AND~~ understands the risks and benefits of immunizations and the potential risks of nonimmunization and that due to personal beliefs, the parent or guardian does not consent to the immunization of the pupil.

2. The school administrator receives written certification ~~which~~ THAT is signed by the parent or guardian and by a physician OR A REGISTERED NURSE PRACTITIONER, ~~which~~ THAT states that one or more of the required immunizations may be detrimental to the pupil's health and ~~which~~ THAT indicates the specific nature and probable duration of the medical condition or circumstance ~~which~~ THAT precludes immunization.

B. An exemption pursuant to subsection A, paragraph 2 is only valid during the duration of the circumstance or condition ~~which~~ THAT precludes immunization.

C. Pupils who lack documentary proof of immunization shall not attend school during outbreak periods of communicable immunization-preventable diseases as determined by the department of health services or local health department. The department of health services or local health department shall transmit notice of this determination to the school administrator responsible for the exclusion of the pupils.

I. If any portion of a psychiatric record is excised pursuant to subsection H, a court, upon application of a peace officer or adult protective services worker, may order that the entire record or any portion of such record containing information relevant to the reported abuse or neglect be made available to the peace officer or adult protective services worker investigating the abuse or neglect.

K. J. A licensing agency shall not find that a reported incidence of abuse at a care facility by itself is sufficient grounds to permit the agency to close the facility or to find that all residents are in imminent danger.

A. K. A person who violates any provision of this section is guilty of a class 1 misdemeanor.

Approved by the Governor April 18, 2007.

Filed in the Office of the Secretary of State April 18, 2007.

## PUBLIC EMPLOYEE DEFINED CONTRIBUTIONS PLANS

### CHAPTER 98

#### S. B. 1200

#### AN ACT AMENDING SECTION 38-953, ARIZONA REVISED STATUTES; RELATING TO PUBLIC EMPLOYEE SUPPLEMENTAL DEFINED CONTRIBUTION PLANS.

Be it enacted by the Legislature of the State of Arizona:

**Section 1.** Section 38-953, Arizona Revised Statutes, is amended to read:

**38-953. Supplemental option**

A. A supplemental defined contribution plan is in addition to and does not replace an employee's existing state defined benefit retirement plan.

B. Except as provided in subsection C, any contributing member of an eligible group that establishes a supplemental defined contribution plan as authorized by this article may participate in the supplemental defined contribution plan. Participation in any plan established by an eligible group authorizes the member's employer to make reductions or deductions in the member's compensation. The employer shall submit any reports required by the plan. Any compensation deferred under the plan shall be included as regular compensation or compensation for the purpose of computing the retirement and pension benefits earned by any employee participating in the plan.

C. If the Arizona state retirement system establishes a supplemental defined contribution plan and an employer member of the Arizona state retirement system elects to participate in the supplemental defined contribution plan, any employee member of the employer who meets the eligibility requirements that are prescribed by the board for participation in the supplemental defined contribution plan and that are selected by the member's employer may participate in the supplemental defined contribution plan.

D. An employee shall make an election to participate in a supplemental defined contribution plan within two years after the employee first meets the eligibility requirements to participate in the plan. An election to participate in a plan is irrevocable and continues for the remainder of the employee's employment with the employer.

E. If an employee elects to participate in a plan pursuant to this section, the employee shall contribute an A PRESCRIBED amount equal to ~~at least one per cent~~ of the employee's gross compensation, WHICH SHALL BE A PERCENTAGE OF THE EMPLOYEE'S GROSS COMPENSATION, A FIXED DOLLAR AMOUNT, AN AMOUNT PRESCRIBED IN THE PLAN OR SOME OTHER DEFINITIVE AMOUNT THAT MAY NOT BE MODIFIED OR

## Arkansas

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\*\*\* Legislation is current through the 2013 Regular Session and updates \*\*\*  
\*\*\* received from the Arkansas Code Revision Commission through \*\*\*  
\*\*\* November 15, 2013. \*\*\*  
\*\*\* Annotations are current through January 16, 2014. \*\*\*

Title 6 Education  
Subtitle 2. Elementary And Secondary Education Generally  
Chapter 18 Students  
Subchapter 7 -- Health

**A.C.A. § 6-18-702 (2014)**

**6-18-702. Immunization.**

(a) Except as otherwise provided by law, no infant or child shall be admitted to a public or private school or child care facility of this state who has not been age-appropriately immunized from poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles, rubella, and other diseases as designated by the State Board of Health, as evidenced by a certificate of a licensed physician or a public health department acknowledging the immunization.

(b) (1) The responsibility for the enforcement of this section rests equally with each school district of this state and the parent or guardian of the child or pupil, and each of them shall be separately and individually liable for permitting any violation of this section.

(2) (A) The Division of Child Care and Early Childhood Education of the Department of Human Services shall be responsible for enforcing this section with respect to child care facilities.

(B) The division may promulgate appropriate rules and regulations, to be approved by the Arkansas Early Childhood Commission, for the enforcement of this section.

(C) The owners or managers of those facilities and any parent or guardian violating the regulations shall be subject to the penalties provided in the Child Care Facility Licensing Act, § 20-78-201 et seq.

(c) (1) (A) (i) The division shall be responsible for enforcing this section with respect to child care facilities.

(ii) The division may promulgate appropriate rules and regulations for the enforcement of this section.

(B) The owners or managers of those facilities and any parent or guardian violating the regulations shall be subject to the penalties provided in the Child Care Facility Licensing Act, § 20-78-201 et seq.

(2) (A) Regarding kindergarten through grade twelve (K-12), the State Board of Education, after having consulted with the State Board of Health, shall promulgate appropriate rules and regulations for the enforcement of this section by school district boards of directors, superintendents, and principals.

(B) Any school official, parent, or guardian violating the regulations shall be subject to the penalties imposed in this section.

(d) (1) (A) The State Board of Health shall promulgate rules and regulations to ensure that all exemptions provided by this section shall have a minimal effect on the health and safety of all children attending day care or kindergarten through grade twelve (K-12).

(B) The rules shall provide for, but are not limited to, the tracking of those children with exemptions so that appropriate steps may be taken in the event of an outbreak or epidemic.

(2) The Department of Health, and no other department or entity, shall grant exemptions provided by this section.

(3) If in the discretion of the health authority having jurisdiction or of any physician licensed to practice by the Arkansas State Medical Board any person to whom this section applies shall be deemed to have a **physical disability that may contraindicate vaccination**, a certificate to that effect issued by the health officer may be accepted in lieu of a certificate of vaccination, provided that the exemption shall not apply when the disability shall have been removed.

(4) (A) This section shall not apply if the parents or legal guardian of that child object thereto on the grounds that immunization conflicts with the religious or philosophical beliefs of the parent or guardian.

(B) The parents or legal guardian of the child shall complete an annual application process developed in the rules and regulations of the Department of Health for medical, religious, and philosophical exemptions.

(C) The rules and regulations developed by the Department of Health for medical, religious, and philosophical exemptions shall include, but not be limited to:

(i) A notarized statement requesting a religious, philosophical, or medical exemption from the Department of Health by the parents or legal guardian of the child regarding the objection;

(ii) Completion of an educational component developed by the Department of Health that includes information on the risks and benefits of vaccination;

(iii) An informed consent from the parents or guardian that shall include a signed statement of refusal to vaccinate based on the Department of Health's refusal-to-vaccinate form; and

(iv) A signed statement of understanding that:

(a) At the discretion of the Department of Health, the unimmunized child or individual may be removed from day care or school during an outbreak if the child or individual is not fully vaccinated; and

(b) The child or individual shall not return to school until the outbreak has been resolved and the Department of Health approves the return to school.

(D) No exemptions may be granted under this subdivision (d)(4) until the application process has been implemented by the Department of Health and completed by the applicant.

(5) Furthermore, the provisions of this section requiring pertussis vaccination shall not apply to any child with a sibling, either whole blood or half blood, who has had a serious adverse reaction to the pertussis antigen, which reaction resulted in a total permanent disability.

(e) Any person found guilty of violating this section or the regulations promulgated by the State Board of Education or the division for the enforcement of this section shall be guilty of a violation and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for each offense.

**HISTORY:** Acts 1967, No. 244, §§ 1-3; 1973, No. 633, § 1; 1983, No. 150, § 1; A.S.A. 1947, §§ 80-1548 -- 80-1550; Acts 1997, No. 871, § 1; 1999, No. 1222, §§ 1, 2; 2003, No. 999, § 1; 2005, No. 1994, § 185.

1967 Acts 1967, No. 244, §§ 1-3; (Approved March 8, 1967)

Act 244]

ACTS OF ARKANSAS.

469

effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 10. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: March 8, 1967.

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### ACT 244

AN ACT to Require all Children to be Immunized From Poliomyelitis, Diptheria, Tetanus, Pertusis, and Red (Rubeola) Measles Before Entering the Public or Private Schools of This State; and for Other Purposes.

*Be It Enacted by the General Assembly of the State of Arkansas:*

SECTION 1. No child shall be admitted to a public or private school of this State who has not been immunized from poliomyelitis, diptheria, tetanus, pertusis, and red (rubeola) measles, as evidenced by a certificate of a licensed physician, or a public health department, acknowledging same.

SECTION 2. The responsibility for the enforcement of this Act rests equally with each school district of this State and the parent or guardian of the pupil, and each of them shall be separately and individually liable for permitting any violation of this Act. The State Board of Education, after having consulted with the



State Board of Health, shall promulgate appropriate rules and regulations for the enforcement of this Act by school boards, superintendents and principals, and any school official, parent or guardian violating said regulations shall be subject to the penalties imposed herein. If, in the discretion of the health authority having jurisdiction, of any physician licensed to practice by the three medical examining boards enumerated in Section 1 of Act 148 of 1935 [Ark. Stats. (1947) Section 72-201], any person to whom this Act applies shall be deemed to have physical disability which may contraindicate vaccination, a certificate to that effect, issued by the said health officer, may be accepted in lieu of a certificate of vaccination, provided that the exemption shall not apply when such disability shall have been removed. Any person found guilty of violating the provisions of this Act, or the regulations promulgated by the State Board of Education for the enforcement hereof, shall be guilty of a misdemeanor.

SECTION 3. The provisions of this Act shall not apply if the parents or legal guardian or guardians of such child object thereto on the grounds that such immunization conflicts with the religious tenets and practices of a recognized church or religious denomination of which said parent or guardian is an adherent or member.

SECTION 4. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: March 8, 1967.

1973 1973, No. 633, § 1 (Approved April 9, 1973)

ACT 633]

ACTS OF ARKANSAS

1735

activities, which are essential to the welfare of the citizens and inhabitants of this State and that the immediate effect of this Act is the only means by which such things can be accomplished. Therefore an emergency is declared to exist, and this Act, being immediately necessary to the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

APPROVED: April 9, 1973.

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### ACT 633

AN ACT to Amend Section 1 of Act 244 of 1967 [Ark. Stats. Section 80-1548] to Require Children to Be Immunized from Rubella as a Condition to Being Admitted to a Public or Private School in this State; and for Other Purposes.

*Be It Enacted by the General Assembly of the State of Arkansas:*

SECTION 1. Section 1 of Act 244 of 1967, the same being Arkansas Statutes Section 80-1548, is hereby amended to read as follows:

"Section 1. No child shall be admitted to a public or private school of this State who has not been immunized from poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles, and rubella as evidenced by a certificate of a licensed physician, or a public health department, acknowledging same."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: April 9, 1973.

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ACT 634

AN ACT to Provide that a Member of any State-Supported Retirement System in this State under which No Provision Is Made for Receiving Credited Service in the System for Military Service, Shall Be Entitled to Receive Credited Service in the System for a Period of Not to Exceed Two Years, for Service Rendered by Him in the Armed Forces of the United States During *World War I, World War II, the Korean Conflict, or the Vietnam Conflict; and for Other Purposes.*

*Be It Enacted by the General Assembly of the State of Arkansas:*

SECTION 1. Any member of a State-supported retirement system in this State, which system makes no provision for giving members credited service in the System for service rendered by the member in the armed forces of the United States, shall be entitled to receive free credited service in the System for a period of not to exceed two (2) years, for service rendered by him in the armed forces of the United States during *World War I, World War II, the Korean Conflict or the Vietnam Conflict.*

SECTION 2. Any person entitled to receive free credited service in a public-supported retire-

**1983 Act 150 section 1 (approved Feb 11, 1983)**

ACT 150]                      ACTS OF ARKANSAS                      191

**SECTION 6.** The purpose of this Act is not to be construed in any manner other than that of broadening the curriculum offerings that may be made available to students whose home district does not offer subjects needed by such students to realize their educational objectives.

**APPROVED: February 11, 1983.**

ACT 150

**AN ACT to Amend Section 3 of Act 244 of 1967 [Ark. Stat. 80-1550] to Exempt from the Mandatory Pertussis Immunization Requirements for School Children, with Siblings, Either Whole Blood or Half Blood, Who Have Had Serious Adverse Reactions to Such Immunizations Which Reaction Resulted in a Total Permanent Disability; and for Other Purposes.**

*Be It Enacted by the General Assembly of the State  
of Arkansas:*

SECTION 1. Section 3 of Act 244 of 1967, the same being Arkansas Statute 80-1550, is hereby amended to read as follows:

"Section 3. The provisions of this Act shall not apply if the parents or legal guardian or guardians of such child object thereto on the grounds that such immunization conflicts with the religious tenets and practices of a recognized church or religious denomination of which said parent or guardian is an adherent or member. Furthermore, the provisions of this Act

requiring pertussis vaccination shall not apply to any child with a sibling, either whole blood or half blood, who has had a serious adverse reaction to the pertussis antigen which reaction resulted in a total permanent disability.

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. Emergency. It is hereby found and determined by the General Assembly that in some rare instances children have serious adverse reactions to the mandatory pertussis immunizations required for admittance into public and private schools of this State; that in such cases, for fear of an hereditary factor being involved, the siblings of such children should not be required to risk such serious adverse reactions by submitting to the pertussis immunizations; that present law does not make provision for such rare occurrences; and that this Act is immediately necessary to protect the health of such children. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: February 11, 1983.

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### ACT 151

AN ACT to Create the Arkansas Adult Probation Commission; and for Other Purposes.

*Be It Enacted by the General Assembly of the State of Arkansas:*

1997 ; Acts 1997, No. 871, § 1 (approved March 26, 1997)

ACT 871]                      ACTS OF ARKANSAS                      4563

Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

*/s/ Rep. Ferguson et al*

APPROVED: 3-26-97

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## ACT 871

AN ACT TO AMEND ARKANSAS CODE 6-18-702 TO ADD OTHER DISEASES AS DESIGNATED BY THE STATE BOARD OF HEALTH TO REQUIRED IMMUNIZATION FOR SCHOOL CHILDREN, AND TO ADD IMMUNIZATION AS A REQUIREMENT FOR ENROLLMENT IN CHILD CARE FACILITIES; AND FOR OTHER PURPOSES.

### Subtitle

AN ACT TO ADD OTHER DISEASES AS DESIGNATED BY THE STATE BOARD OF HEALTH

4564

ACTS OF ARKANSAS

[ACT 871]

TO REQUIRED IMMUNIZATION FOR SCHOOL CHILDREN, AND TO ADD IMMUNIZATION AS A REQUIREMENT FOR ENROLLMENT IN CHILD CARE FACILITIES.

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

SECTION 1. Arkansas Code 6-18-702 is amended to read as follows:

"6-18-702. Immunization.

(a) No infant or child shall be admitted to a public or private school or child care facility of this state who has not been age appropriately immunized from poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles, and rubella, and other diseases as designated by the State Board of Health, except as otherwise provided by law, as evidenced by a certificate of a licensed physician or a public health department acknowledging the immunization.

(b)(1) The responsibility for the enforcement of this section rests equally with each school district of this state and the parent or guardian of the child or pupil, and each of them shall be separately and individually liable for permitting any violation of this section.

(2) The Child Care Facility Licensing Division of the Arkansas Department of Human Services shall be responsible for enforcing this section with respect to child care facilities. The Child Care Facility Review Board may promulgate appropri-

ate rules and regulations for the enforcement of this section. The owners or managers of those facilities and any parent or guardian violating such regulations shall be subject to the penalties provided in Arkansas Code 20-78-201, et seq.

(c) Regarding kindergarten through 12th grade, the State Board of Education, after having consulted with the State Board of Health, shall promulgate appropriate rules and regulations for the enforcement of this section by school boards, superintendents, and principals, and any school official, parent, or guardian violating the regulations shall be subject to the penalties imposed herein.

(d) If, in the discretion of the health authority having jurisdiction or of any physician licensed to practice by the Arkansas State Medical Board, any person to whom this section applies shall be deemed to have a physical disability which may contraindicate vaccination, a certificate to that effect issued by the health officer may be accepted in lieu of a certificate of vaccination, provided that the exemption shall not apply when the disability shall have been removed.

(e) Any person found guilty of violating the provisions of this section or the regulations promulgated by the State Board of Education and/or the Arkansas Child Care Facilities Review Board for the enforcement hereof shall be guilty of a misdemeanor.

(f) The provisions of this section shall not apply if the parents or legal guardian of that child object thereto on the grounds that such immuniza-



4566

ACTS OF ARKANSAS

[ACT 871

tion conflicts with the religious tenets and practices of a recognized church or religious denomination of which the parent or guardian is an adherent or member. Furthermore, the provisions of this section requiring pertussis vaccination shall not apply to any child with a sibling, either whole blood or half blood, who has had a serious adverse reaction to the pertussis antigen, which reaction resulted in a total permanent disability."

SECTION 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

*/s/ Rep. Ferguson et al*

APPROVED: 3-26-97

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1999 ( 1999, No. 1222, §§ 1) (approved April 8, 1999)

Act 1222

ACTS OF ARKANSAS

5057

extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999.

*/s/ Joint Budget Committee*

APPROVED: 4/8/1999

### ACT 1222

“AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE PERTAINING TO CHILD CARE; AND FOR OTHER PURPOSES.”

#### Subtitle

“TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE PERTAINING TO CHILD CARE”

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

SECTION 1. Arkansas Code 6-18-702(b)(2) is amended to read as follows:

“(b)(2) The Child Care Facility Licensing Division of the Arkansas Department of Human Services shall be responsible for enforcing this section with respect to child care facilities. ~~The Child Care Facility Review Board~~ Division of Child Care and Early Childhood Education may promulgate appropriate rules and regulations, to be approved by the Arkansas Early Childhood Commission, for the enforcement of this section. The owners or managers of those facilities and any parent or guardian violating such regulations shall be subject to the penalties provided in § 20-78-201, et seq.”

Additions are indicated by underline; deletions by ~~strikeout~~

5058

ACTS OF ARKANSAS

Act 1222

SECTION 2. Arkansas Code 6-18-702(e) is amended to read as follows:

"(e) Any person found guilty of violating the provisions of this section or the regulations promulgated by the State Board of Education and/or the Arkansas Child Care Facilities Review Board Division of Child Care and Early Childhood Education for the enforcement hereof shall be guilty of a misdemeanor."

SECTION 3. Arkansas Code 6-45-103(3) is amended to read as follows:

"(3) 'Arkansas Early Childhood Commission' or 'commission' means ~~a twenty-five (25)~~ an eighteen (18) member advisory body appointed by the Governor to perform certain duties and responsibilities relating to the development, expansion, and coordination of early childhood programs including, but not limited to, serving as the advisory body to the General Education Division of the Department of Education on early childhood program issues;"

SECTION 4. Arkansas Code 12-12-506(a)(2)(A)(ix)(a) is amended to read as follows:

"(ix)(a) The ~~Child Care Facility Review Board Division of Child Care and Early Childhood Education~~ and the child care facility owner or operator who requested the registry information through a signed notarized release from an individual who is a volunteer or who has applied for employment or who is currently employed by a child care facility or who is the owner or operator of a child care facility."

SECTION 5. Arkansas Code 12-12-506(a)(2)(B) is amended to read as follows:

"(B) Reports of investigative determinations which are true shall be disclosed to the ~~Child Care Facility Review Board Division of Child Care and Early Childhood Education~~, by oral report only, for purposes of enforcement of licensing laws and regulations."

SECTION 6. Arkansas Code 20-78-202 is amended to read as follows:

"20-78-202. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) 'Division' means the Division of Child Care and Early Childhood Education, Department of Human Services;

(2) 'Department' means the Department of Human Services;

(3) 'Deputy director' means the deputy director of the Division of Child Care and Early Childhood Education of the Department of Human Services;

(4)(A) 'Child care facility' means any facility which provides care, training, education, or supervision for any unrelated minor child, whether or not the facility is operated for profit, and whether or not the facility makes a charge for the services offered by it.

(B) For the purposes of this subdivision, 'related minor child' means a minor child related by blood, marriage, or adoption to the owner or operator of the facility, or a minor child who is a ward of the owner or operator of the facility pursuant to a guardianship order issued by an Arkansas court of competent jurisdiction.

(i) This definition includes, but is not limited to, a nursery, a nursery school, kindergarten, a day care center, or a family day care home.

(ii) In any case where a facility or the owner or operator thereof is appointed guardian of a total of ten (10) or more minors, it shall be presumed that the facility, owner or operator is engaged in child care and shall be subject to child care facility licensure.

(iii) However, this definition does not include:

(a) Special schools or classes operated solely for religious instruction;

(b) Facilities operated in connection with a church, shopping center, business, or establishment where children are cared for during short periods of

Additions are indicated by underline; deletions by ~~strikeout~~

time while parents or persons in charge of the children are attending church services, shopping, or engaging in other activities during the periods;

(c) Any educational facility, whether private or public, which operates solely for educational purposes in grades one (1) or above and does not provide any custodial care;

(d) Kindergartens operated as a part of the public schools of this state;

(e) Any situation, arrangement, or agreement by which one (1) or more persons care for less than six (6) children from more than one (1) family at the same time;

(f) Any educational facility, whether public or private, which operates a kindergarten program in conjunction with grades one (1) and above and provides short-term custodial care prior to or following classes for those students;

(g) Any recreational facility or program, whether public or private, which operates solely as a place of recreation for minor children. For purposes of this subdivision, a 'recreational facility or program' is defined as a facility or program which operates with children arriving and leaving voluntarily for scheduled classes, activities, practice, games, and meetings; and

(h) Any state operated facility to house juvenile delinquents or any serious offender program facility operated by a state designee to house juvenile delinquents, foster home, group home, or custodial institution. Those facilities shall be subject to program requirements modeled on nationally recognized correctional and child welfare standards, which shall be developed, administered, and monitored by the Division of Youth Services and the Division of Children and Family Services of the Department of Human Services.

(i) The Arkansas School for Mathematics and Sciences;

(5)(A) 'Child Care Appeal Review Panel' or 'Panel' means *an eleven (11) member body under the Department of Human Services which shall serve as a review and appeal body regarding licensure or registration actions.*

Additions are indicated by underline; deletions by ~~strikeout~~

(B) The Panel shall consists of *eleven (11)* members including the following:

- (1) *Three (3)* Early Childhood Professional;
- (2) *One (1)* Pediatric Health Professional;
- (3) *One (1)* Parent of a child in a licensed early childhood program;
- (4) *Director of the Division of Child Care and Early Childhood Education or their *designee who shall serve as chair of the Panel and shall not vote**;
- (5) *Five (5)* Licensed Child Care Providers representing a diversity of child care settings;
- (6) *Legal Counsel from the Office of the Attorney General shall serve as a facilitator of the Panel and shall not serve as a voting member; and*
- (7) *Alternates shall be chosen to serve during times of absence or in cases of conflict of interest. Five (5) alternates shall be chosen as follows: one (1) Early Childhood Professional, one (1) Pediatric Health Professional, one (1) Parent of a child in a licensed early childhood program, and two (2) Licensed Child Care Providers.*

(C) Members of the Panel shall serve for three (3) year terms, not to exceed six (6) consecutive years of service on the Panel. *Members of the Panel shall not be members of the Arkansas Early Childhood Commission. Start-up* terms would be staggered one (1), two (2), and three (3) years so that Panel members would not leave their terms during the same year. Start-up terms to be determined by random selection. Members from the Office of the Attorney General and the Director of the Division of Child Care and early Childhood Education shall hold permanent offices.

(D) The Arkansas Early Childhood Commission, from applications submitted, shall make Panel selections from persons meeting the qualifications for service and exhibiting a willingness and time commitment to serve on the Panel. Panel members may be

2003 ( 2003, No. 999, § 1) (Approved April 1, 2003) (Effective April 1, 2003)  
 No.999 s4

Act 999

ACTS OF ARKANSAS

3203

### ACT 999

AN ACT TO REVISE THE RELIGIOUS EXEMPTION TO THE SCHOOL IMMUNIZATION REQUIREMENTS; AND FOR OTHER PURPOSES.

#### Subtitle

AN ACT TO REVISE THE RELIGIOUS EXEMPTION TO THE SCHOOL IMMUNIZATION REQUIREMENTS.

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

SECTION 1. Arkansas Code § 6-18-702(d), requiring immunization of children, is amended to read as follows:

(d)(1)(A) The State Board of Health shall promulgate rules and regulations to ensure that all exemptions provided by this section shall have a minimal effect on the health and safety of all children attending daycare or kindergarten through grade twelve (K-12).

(B) The rules shall provide for, but are not limited to, the tracking of those children with exemptions so that appropriate steps may be taken in the event of an outbreak or epidemic.

(2) The Department of Health, and no other department or entity, shall grant exemptions provided for by this section.

(3) If, in the discretion of the health authority having jurisdiction or of any physician licensed to practice by the Arkansas State Medical Board, any person to whom this section applies shall be deemed to have a physical disability which may contraindicate

Additions are indicated by underline; deletions by ~~strikeout~~

vaccination, a certificate to that effect issued by the health officer may be accepted in lieu of a certificate of vaccination, provided that the exemption shall not apply when the disability shall have been removed.

~~(2)(4)(A) The provisions of this section shall not apply if the parents or legal guardian of that child object thereto on the grounds that immunization conflicts with the religious tenets and practices of a recognized church or religious denomination of which or philosophical beliefs of the parent or guardian is an adherent or member.~~

(B) The parents or legal guardian of the child shall complete an annual application process developed in the rules and regulations of the Department of Health for medical, religious, and philosophical exemptions.

(C) The rules and regulations developed by the Department of Health for medical, religious, and philosophical exemptions shall include, but not be limited to:

(i) Notarized statement requesting a religious, philosophical, or medical exemption from the Department of Health by the parents or legal guardian of the child regarding the objection;

(ii) Completion of an educational component developed by the Department of Health that includes information on the risks and benefits of vaccination;

(iii) An informed consent from the parents or guardian that shall include a signed statement of refusal to vaccinate based on the Department of Health refusal to vaccinate form; and

(iv) A signed statement of understanding that:

(a) At the discretion of the Department of Health, the unimmunized child or individual may be

Additions are indicated by underline; deletions by ~~strikeout~~



removed from daycare or school during an outbreak if the child or individual is not fully vaccinated; and

(b) The child or individual shall not return to school until the outbreak has been resolved and the Department of Health approves the return to school.

(D) No exemptions may be granted under this subdivision (d)(4), until the application process has been implemented by the Department of Health and completed by the applicant.

(3)(5) Furthermore, the provisions of this section requiring pertussis vaccination shall not apply to any child with a sibling, either whole blood or half blood, who has had a serious adverse reaction to the pertussis antigen, which reaction resulted in a total permanent disability.

SECTION 2. Arkansas Code § 6-60-504(b), concerning religious objections to immunization of college and university students, is amended to read as follows:

(b)(1) The provisions of this subchapter shall not apply if the individual furnishes to the college or university written proof from a church or denomination official that the immunization conflicts with the religious tenets and practices of the recognized church or religious denomination of a letter of exemption from the Department of Health.

(2)(A) The individual shall complete an annual application process developed in the rules and regulations of the Department of Health for medical, religious, and philosophical exemptions.

(B) The rules and regulations developed by the Department of Health for medical, religious, and philosophical exemptions shall include, but not be limited to:

(i) Notarized statement requesting a religious, philosophical, or medical exemption from the

Additions are indicated by underline; deletions by ~~strikeout~~

Department of Health by the individual regarding the objection

(ii) Completion of an educational component developed by the Department of Health that includes information on the risks and benefits of vaccination;

(iii) An informed consent from the individual that shall include a signed statement of refusal to vaccinate based on the Department of Health refusal to vaccinate form; and

(iv) A signed statement of understanding that:

(a) At the discretion of the Department of Health, the unimmunized child or individual may be removed from daycare or school during an outbreak if the child or individual is not fully vaccinated; and

(b) The child or individual shall not return to school until the outbreak has been resolved and the Department of Health approves the return to school.

(3) No exemptions may be granted under this subsection (b), until the application process has been implemented by the Department of Health and completed by the applicant.

SECTION 3. Arkansas Code § 20-78-206(a)(2)(B), concerning exemptions from immunization in child care facilities, is amended to read as follows:

(B)(i) The provisions of subdivision (a)(2)(A) of this section pertaining to immunizations shall not apply if the parents or legal guardian of that child object thereto on the grounds that such immunization conflicts with the religious tenets and practices of a recognized church or religious denomination of which or philosophical beliefs of the parent or guardian is an adherent or member.

Additions are indicated by underlining; deletions by ~~strikeout~~

(ii) The parents or legal guardian of the child shall complete an annual application process developed in the rules and regulations of the Department of Health for medical, religious and philosophical exemptions.

(a) The rules and regulations developed by the Department of Health for medical, religious and philosophical exemptions shall include but not be limited to:

(1) Notarized statement requesting a religious, philosophical, or medical exemption from the Department of Health by the parents or legal guardian of the child regarding the objection;

(ii) Completion of an educational component developed by the Department of Health that includes information on the risks and benefits of vaccination;

(3) An informed consent from the parents or guardian that shall include a signed statement of refusal to vaccinate based on the Department of Health refusal to vaccinate form; and

(4) A signed statement of understanding that:

(A) At the discretion of the Department of Health, the unimmunized child or individual may be removed from daycare or school during an outbreak if the child or individual is not fully vaccinated; and

(B) The child or individual shall not return to school until the outbreak has been resolved and the Department of Health approves the return to school.

(b) No exemptions may be granted under this subdivision (d)(4), until the application process has been implemented by the Department of Health and completed by the applicant.

~~(ii)(iii)~~ Furthermore, the provisions of subdivision (a)(2)(A) of this section requiring pertussis vaccination shall not apply to any child with a sibling, either whole blood or half blood, who has had a

serious adverse reaction to the pertussis antigen, which reaction resulted in a total permanent disability.

*SECTION 4. Arkansas Code § 20-7-306, concerning reports and assistance by the Department of Health to the House and Senate Interim Committees on Public Health, Welfare, and Labor, is amended to add an additional subsection to read as follows:*

(c)(1)(A) With regard to §§ 6-18-702(d), 6-60-504(b), and 20-78-206(a)(2)(B), the Department of Health shall report every six (6) months to the House and Senate Interim Committees of Public Health, Welfare, and Labor regarding:

(i) The geographic patterns of exemptions, vaccination rates, and exemptions in those areas as well as the rest of the state, and

(ii) Disease incidence of vaccine preventable disease collected by the Department of Health.

(B) The collections of exemption information shall begin January 4, 2004.

(C) Reports shall begin at the first interim meeting of the House and Senate Interim Committees of Public Health, Welfare, and Labor.

(2) The Department of Health shall facilitate a study to include religious, philosophical, and medical exemption patterns and the incidence of disease in the state.

(A) The study shall include:

(i) An evaluation of the state's immunization policies;

(ii) The incidence of disease in Arkansas and other states; and

(iii) A risk evaluation of specific populations in Arkansas.

Additions are indicated by underline; deletions by ~~strikeout~~

Act 1000

ACTS OF ARKANSAS

3209

(B) The study shall begin July 3, 2003, and shall be completed by December 31, 2004.

(C) The study shall be a collaborative effort coordinated by the Department of Health.

(3) The Department of Health shall issue a final assessment on the impact of this subsection (c) to the Senate and House Public Health, Welfare, and Labor Committees during the 2005 regular session of the General Assembly.

SECTION 4.<sup>1</sup> EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the federal District Courts for the Eastern and Western Districts of Arkansas have held the state's school immunization statute to be unconstitutional, that the courts have stayed the effect of the finding, that if the stay is lifted before this act becomes effective, some students will be excluded from school attendance. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

/s/ Critcher, et al

APPROVED: 4/1/2003

## ACT 1000

### AN ACT TO ALLOW CIRCUIT JUDGES TO SIGN

<sup>1</sup> Section number so in original

2005 ( 2005, No. 1994, § 185.) Approved April 11, 2005

Act 1994

ACTS OF ARKANSAS

7097

(b) Every person convicted under the provisions of this section shall be fined in any sum not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00).

SECTION 185. Arkansas Code § 6-18-702 is amended to read as follows:

6-18-702. Immunization.

(a) Except as otherwise provided by law, no infant or child shall be admitted to a public or private school or child care facility of this state who has not been age appropriately immunized from poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles, rubella, and other diseases as designated by the State Board of Health, as evidenced by a certificate of a licensed physician or a public health department acknowledging the immunization.

(b)(1) The responsibility for the enforcement of this section rests equally with each school district of this state and the parent or guardian of the child or pupil, and each of them shall be separately and individually liable for permitting any violation of this section.

(2)(A) The Child Care Facility Licensing Division of the Department of Human Services shall be responsible for enforcing this section with respect to child care facilities.

(B) The Division of Child Care and Early Childhood Education may promulgate appropriate rules and regulations, to be approved by the Arkansas Early Childhood Commission, for the enforcement of this section.

(C) The owners or managers of those facilities and any parent or guardian violating such regulations shall be subject to the penalties provided in § 20-78-201 et seq.

Additions are indicated by underline; deletions by ~~strikeout~~

(c)(1)(A)(i) The Division of Child Care and Early Childhood Education shall be responsible for enforcing this section with respect to child care facilities.

(ii) The division may promulgate appropriate rules and regulations for the enforcement of this section.

(B) The owners or managers of those facilities and any parent or guardian violating the regulations shall be subject to the penalties provided in § 20-78-201 et seq.

(2)(A) Regarding kindergarten through grade 12 (K-12), the State Board of Education, after having consulted with the State Board of Health, shall promulgate appropriate rules and regulations for the enforcement of this section by school boards, superintendents, and principals.

(B) Any school official, parent, or guardian violating the regulations shall be subject to the penalties imposed herein.

(d)(1)(A) The State Board of Health shall promulgate rules and regulations to ensure that all exemptions provided by this section shall have a minimal effect on the health and safety of all children attending day care or kindergarten through grade twelve (K-12).

(B) The rules shall provide for, but are not limited to, the tracking of those children with exemptions so that appropriate steps may be taken in the event of an outbreak or epidemic.

(2) The Department of Health, and no other department or entity, shall grant exemptions provided for by this section.

(3) If, in the discretion of the health authority having jurisdiction or of any physician licensed to practice by the Arkansas State Medical Board, any person to whom this section applies shall be deemed to have a physical disability that may contraindicate

vaccination, a certificate to that effect issued by the health officer may be accepted in lieu of a certificate of vaccination, provided that the exemption shall not apply when the disability shall have been removed.

(4)(A) The provisions of this section shall not apply if the parents or legal guardian of that child object thereto on the grounds that immunization conflicts with the religious or philosophical beliefs of the parent or guardian.

(B) The parents or legal guardian of the child shall complete an annual application process developed in the rules and regulations of the Department of Health for medical, religious, and philosophical exemptions.

(C) The rules and regulations developed by the Department of Health for medical, religious, and philosophical exemptions shall include, but not be limited to:

(i) A notarized statement requesting a religious, philosophical, or medical exemption from the Department of Health by the parents or legal guardian of the child regarding the objection;

(ii) Completion of an educational component developed by the Department of Health that includes information on the risks and benefits of vaccination;

(iii) An informed consent from the parents or guardian that shall include a signed statement of refusal to vaccinate based on the Department of Health's refusal-to-vaccinate form; and

(iv) A signed statement of understanding that:

(a) At the discretion of the Department of Health, the unimmunized child or individual may be removed from day care or school during an outbreak if the child or individual is not fully vaccinated; and

(b) The child or individual shall not return to school until the outbreak has been resolved and the Department of Health approves the return to school.



(D) No exemptions may be granted under this subdivision (d)(4) until the application process has been implemented by the Department of Health and completed by the applicant.

(5) Furthermore, the provisions of this section requiring pertussis vaccination shall not apply to any child with a sibling, either whole blood or half blood, who has had a serious adverse reaction to the pertussis antigen, which reaction resulted in a total permanent disability.

(e) Any person found guilty of violating the provisions of this section or the regulations promulgated by the State Board of Education or the division for the enforcement hereof shall be guilty of a misdemeanor violation and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for each offense.

SECTION 186. Arkansas Code § 6-18-804 is amended to read as follows:

6-18-804. Age and consent requirements.

(a) No pupil shall be designated a safety patrol member under this subchapter unless he or she is eleven (11) years of age or over and has the written permission of a parent or guardian.

(b) Any teacher or board member using any pupil for safety patrol purposes without the written permission of a parent or guardian shall be deemed guilty of a misdemeanor violation and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for each offense.

SECTION 187. Arkansas Code § 6-64-215 is amended to read as follows:

6-64-215. Records and reports regarding students and teachers.

(a) The Board of Trustees of the University of Arkansas shall keep or have kept a record showing:

Additions are indicated by underline; deletions by ~~strikeout~~

## California

LexisNexis Academic

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\*\*\* This document is current through the 2014 Supplement \*\*\*  
(All 2013 legislation)

HEALTH AND SAFETY CODE  
Division 105. Communicable Disease Prevention and Control  
Part 2. Immunizations  
Chapter 1. Educational and Child Care Facility Immunization Requirements

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Health & Saf Code § 120325 (2013)

§ 120325. Legislative intent

In enacting this chapter, but excluding Section 120380, and in enacting Sections 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases:

- (1) Diphtheria.
- (2) Hepatitis B.
- (3) Haemophilus influenzae type b.
- (4) Measles.
- (5) Mumps.
- (6) Pertussis (whooping cough).
- (7) Poliomyelitis.
- (8) Rubella.
- (9) Tetanus.
- (10) Varicella (chickenpox).
- (11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the department and that a record of the immunization is made in accordance with the regulations.

(c) Exemptions from immunization for medical reasons or because of personal beliefs.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

#### **HISTORY:**

Added 1992 Chapter 566, section 4; Stats 1995 ch 415 § 7 (SB 1360). Amended Stats 1999 ch 747 § 1 (SB 741); Stats 2010 ch 434 § 1 (AB 354), effective January 1, 2011.

**1992 Health & Safety Code 3380 (1992 Chapter 566, section 4)**

Ch. 566 ]

STATUTES OF 1992

2093

addition to the total twenty cents (\$0.20) of taxes and assessments on each one hundred dollars (\$100) of assessed valuation specified in subdivision (a) to pay for work authorized by paragraph (15) of subdivision (b) of Section 5.

SEC. 9. Section 30.5 is added to the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951), to read:

Sec. 30.5. (a) Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure applies to any judicial action or proceeding to validate, attack, review, set aside, void, or annul an ordinance or resolution adopted pursuant to this act that imposes an assessment, charge, or fee or amends an existing ordinance or resolution.

(b) If an ordinance or resolution provides for an automatic adjustment in an assessment, charge, or fee, and the automatic adjustment results in an increase in the amount of an assessment, charge, or fee, any action or proceeding to attack, review, set aside, void, or annul the increase shall be commenced within 60 days of the effective date of the increase.

(c) Any appeal from a final judgment in the action or proceeding brought pursuant to this section shall be filed within 30 days after entry of judgment.

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**CHAPTER 566**

An act to amend Sections 429.36 and 3380 of, to add the heading of Article 1 (commencing with Section 3380) to, and to add Article 2 (commencing with Section 3395) to, Chapter 7 of Division 4 of, the Health and Safety Code, relating to public health.

[Approved by Governor August 30, 1992. Filed with  
Secretary of State August 31, 1992.]

*The people of the State of California do enact as follows:*

**SECTION 1.** (a) The Legislature finds and declares all of the following:

(1) There is a growing number of two-year old children who have not received the necessary childhood immunizations to prevent communicable diseases.

(2) The reasons these children do not receive immunizations are many and varied. These reasons include, but are not limited to, the following:

(A) Their parents live in poverty and do not have access to insurance coverage for health care and immunizations.

(B) Their parents come from non-English speaking cultures where the importance of early childhood immunizations has not been emphasized.

(C) Their parents do not receive adequate referral to immunization programs, or have access to public immunization programs through other public assistance services they receive.

(3) The State Department of Health Services has developed Maternal and Child Health Year 2000 Objectives as a response to the mandates of the federal Omnibus Budget Reconciliation Act of 1989 (OBRA 89). Their Year 2000 Objective for Immunizations is to increase to 90 percent the percentage of children who complete the basic immunization requirements by two years of age. The State Department of Health Services has found:

(A) In California, fewer than half of two-year-old children are fully immunized for diphtheria, tetanus, and pertussis. Although state law regulating immunizations for children in schools and child day care facilities (Chapter 7 (commencing with Section 3380) of Division 4 of the Health and Safety Code) are enforced by the state department, resulting in adequate immunization levels for schoolage children of over 92 percent, there is no similar mechanism to require full immunization status at the two-year-old age level.

(B) The percentage of fully immunized African-American and Hispanic two-year-old children is significantly less than that for Whites.

(C) The percentage of fully immunized toddlers has remained at less than 50 percent for the last eight years.

(D) The ages of concern that remain are infancy and preschool, especially for those children at high risk whether because of medical condition or because of social and environmental factors.

(E) Ensuring protective levels of immunization against communicable disease for these children is the most historically proven cost-effective preventive measure available to public health agencies.

(b) It is the intent of the Legislature, in enacting this act, to establish an immunization outreach program to respond to this problem, and to provide state and local government incentives to improve outreach to this population and achieve full and timely immunization of children, in order to reach the Maternal and Child Health Year 2000 Objectives of the State Department of Health Services relative to immunization.

SEC. 2. Section 429.36 of the Health and Safety Code is amended to read:

429.36. No person shall be liable for any injury caused by an act or omission in the administration of a vaccine or other immunizing agent to a minor, including the residual effects of the vaccine or immunizing agent, if the immunization is either required by state law, or given as part of an outreach program pursuant to Article 2 (commencing with Section 3395) of Chapter 7 of Division 4, and the act or omission does not constitute willful misconduct or gross negligence.

SEC. 3. The heading of Article 1 (commencing with Section 3380) is added to Chapter 7 of Division 4 of the Health and Safety

Code, to read:

**Article 1. School and Child Care Admission Immunization Requirements**

**SEC. 4.** Section 3380 of the Health and Safety Code is amended to read:

**3380.** In enacting this chapter, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against hemophilus influenza type B, hepatitis B, diphtheria, pertussis, tetanus, poliomyelitis, measles, mumps, rubella, and any other infectious disease for which immunization is recommended by the most current recommendations of the American Academy of Pediatrics Report of the Committee on Infectious Diseases, the Centers for Disease Control Immunization Practices Advisory Committee, or the state department as required by state law.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the State Department of Health Services and that a record of the immunization is made in accordance with such regulations.

(c) Exemptions from immunization for medical reasons or because of personal beliefs.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

(f) An immunization outreach program to the extent funds are appropriated by the Legislature, or are available from other sources, but no mandate beyond available resources.

**SEC. 5.** Article 2 (commencing with Section 3395) is added to Chapter 7 of Division 4 of the Health and Safety Code, to read:

**Article 2. Immunization and Comprehensive Health Services Outreach Program**

**3395.** The state department may establish an immunization outreach program.

**3395.1.** (a) A local health officer, or consortium of local health officers, may establish permanent, temporary, or mobile sites and programs, for the purpose of immunizing children, or performing

1995 (H&SC 3380 repealed) H&SC 120325 Created 120325 (b)

3000

STATUTES OF 1995

[ Ch. 415 ]

120290. Except in the case of the removal of an afflicted person in a manner the least dangerous to the public health, any person afflicted with any contagious, infectious, or communicable disease who wilfully exposes himself, and any person who wilfully exposes another person afflicted with the disease, is guilty of a misdemeanor.

120295. Any person who violates any section in Chapter 3 (commencing with Section 120175, but excluding Sections 120130 and 120195), is guilty of a misdemeanor, punishable by a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), or by imprisonment for a term of not more than 90 days, or by both. He or she is guilty of a separate offense for each day that the violation continued.

120300. The district attorney of the county where a violation of Sections 121365 and 120280 may be committed, shall prosecute all those violations and, upon the request of a health officer, shall prosecute, as provided in Section 120280, violations of any order of a health officer made and served as provided in Section 121365 or Section 120105.

120305. Every person who possesses any intoxicating liquor in or on any public hospital or sanatorium providing for the treatment of tuberculosis or within the boundaries of the grounds belonging thereto is guilty of a misdemeanor. This section shall not prohibit (a) the possession of any intoxicating liquor used for medicinal purposes when issued pursuant to a written order of a physician licensed to practice medicine under the laws of the State of California, (b) the possession of any intoxicating liquor by personnel for his or her own use who resides at the hospital or sanatorium or on the grounds thereof, (c) the possession of any intoxicating liquor used by a minister of the gospel or priest or rabbi in a religious sacrament or ceremony or (d) the service of wine to a patient as part of the hospital's regular menu or bill of fare if the patient is located in a portion of the premises wholly separate and isolated from patients receiving treatment for tuberculosis.

## PART 2. IMMUNIZATIONS

### CHAPTER 1. EDUCATIONAL AND CHILD CARE FACILITY IMMUNIZATION REQUIREMENTS

120325. In enacting Chapter 1 (commencing with Section 120325, but excluding Section 120380) and in enacting Sections 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

- (a) A means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases:
  - (1) Diphtheria.
  - (2) Hepatitis B.
  - (3) Haemophilus influenzae type b.

- (4) Measles.
- (5) Mumps.
- (6) Pertussis (whooping cough).
- (7) Poliomyelitis.
- (8) Rubella.
- (9) Tetanus.

(10) Any other disease that is consistent with the most current recommendations of the United States Public Health Services' Centers for Disease Control Immunization Practices Advisory Committee and the American Academy of Pediatrics Committee of Infectious Diseases, and deemed appropriate by the department.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the department and that a record of the immunization is made in accordance with the regulations.

(c) Exemptions from immunization for medical reasons or because of personal beliefs.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

120330. The department, in consultation with the Department of Education, shall adopt and enforce all regulations necessary to carry out Chapter 1 (commencing with Section 120325, but excluding Section 120380) and to carry out Sections 120400, 120405, 120410, and 120415.

120335. (a) As used in Chapter 1 (commencing with Section 120325, but excluding Section 120380) and as used in Sections 120400, 120405, 120410, and 120415, the term "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized. The following are the diseases for which immunizations shall be documented:

- (1) Diphtheria.



(2) *Haemophilus influenzae* type b, except for children who have reached the age of four years, six months.

(3) Measles.

(4) Mumps, except for children who have reached the age of seven years.

(5) Pertussis (whooping cough), except for children who have reached the age of seven years.

(6) Poliomyelitis.

(7) Rubella.

(8) Tetanus.

(9) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the United States Public Health Services' Centers for Disease Control Immunization Practices Advisory Committee and the American Academy of Pediatrics Committee of Infectious Diseases.

(c) The department may specify the immunizing agents that may be utilized and the manner in which immunizations are administered.

120340. A person who has not been fully immunized against one or more of the diseases listed in Section 120335 may be admitted by the governing authority on condition that within time periods designated by regulation of the department he or she presents evidence that he or she has been fully immunized against all of these diseases.

120345. The immunizations required by Chapter 1 (commencing with Section 120325, but excluding Section 120380) and required by Sections 120400, 120405, 120410, and 120415 may be obtained from any private or public source desired if the immunization is administered and records are made in accordance with regulations of the department.

120350. The county health officer of each county shall organize and maintain a program to make immunizations available to all persons required by Chapter 1 (commencing with Section 120325, but excluding Section 120380) and required by Sections 120400, 120405, 120410, and 120415 to be immunized. The county health officer shall also determine how the cost of the program is to be recovered. To the extent that the cost to the county is in excess of that sum recovered from persons immunized, the cost shall be paid by the county in the same manner as other expenses of the county are paid.

120355. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or guardian, with a written record of immunization given in a form prescribed by the department.

120360. The requirements of Chapter 1 (commencing with Section 120325, but excluding Section 120380) and of Sections 120400, 120405, 120410, and 120415 shall not apply to any person 18 years of age or older, or to any person seeking admission to a community college.

120365. Immunization of a person shall not be required for admission to a school or other institution listed in Section 120335 if the parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of a minor, or the person seeking admission if an emancipated minor, files with the governing authority a letter or affidavit stating that the immunization is contrary to his or her beliefs. However, whenever there is good cause to believe that the person has been exposed to one of the communicable diseases listed in subdivision (a) of Section 120325, that person may be temporarily excluded from the school or institution until the local health officer is satisfied that the person is no longer at risk of developing the disease.

120370. If the parent or guardian files with the governing authority a written statement by a licensed physician to the effect that the physical condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances that contraindicate immunization, that person shall be exempt from the requirements of Chapter 1 (commencing with Section 120325, but excluding Section 120380) and Sections 120400, 120405, 120410, and 120415 to the extent indicated by the physician's statement.

120375. (a) The governing authority of each school or institution included in Section 120335 shall require documentary proof of each entrant's immunization status. The governing authority shall record the immunizations of each new entrant in the entrant's permanent enrollment and scholarship record on a form provided by the department. The immunization record of each new entrant admitted conditionally shall be reviewed periodically by the governing authority to ensure that within the time periods designated by regulation of the department he or she has been fully immunized against all of the diseases listed in Section 120335, and immunizations received subsequent to entry shall be added to the pupil's immunization record.

(b) The governing authority of each school or institution included in Section 120335 shall prohibit from further attendance any pupil admitted conditionally who failed to obtain the required immunizations within the time limits allowed in the regulations of the department, unless the pupil is exempted under Section 120365 or 120370, until that pupil has been fully immunized against all of the diseases listed in Section 120335.

(c) The governing authority shall file a written report on the immunization status of new entrants to the school or institution under their jurisdiction with the department and the local health department at times and on forms prescribed by the department. As provided in paragraph (4) of subdivision (a) of Section 49076 of the Education Code, the local health department shall have access to the complete health information as it relates to immunization of each

student in the schools or other institutions listed in Section 120335 in order to determine immunization deficiencies.

(d) The governing authority shall cooperate with the county health officer in carrying out programs for the immunization of persons applying for admission to any school or institution under its jurisdiction. The governing board of any school district may use funds, property, and personnel of the district for that purpose. The governing authority of any school or other institution may permit any licensed physician or any qualified registered nurse as provided in Section 2727.3 of the Business and Professions Code to administer immunizing agents to any person seeking admission to any school or institution under its jurisdiction.

120380. It is the intent of the Legislature that the administration of immunizing agents by registered nurses in school immunization programs under the direction of a supervising physician and surgeon as provided in Section 11704 of the Education Code shall be in accordance with accepted medical procedure. To implement this intent, the department may adopt written regulations specifying the procedures and circumstances under which a registered nurse, acting under the direction of a supervising physician and surgeon, may administer an immunizing agent pursuant to Section 11704 of the Education Code.

However, nothing in this section shall be construed to prevent any registered nurse from administering an immunizing agent in accordance with Section 11704 of the Education Code in the absence of written regulations as the department is authorized to adopt under this section.

## CHAPTER 2. DEPARTMENT OF HEALTH SERVICES PROVISION OF FUNDS, IMMUNIBIOLOGICS, AND ACCESS TO IMMUNIBIOLOGICS

120400. The department may establish an immunization outreach program.

120405. (a) A local health officer, or consortium of local health officers, may establish permanent, temporary, or mobile sites and programs, for the purpose of immunizing children, or performing outreach to refer parents to other programs that provide immunizations and comprehensive health services. These sites for referral or immunization may include, but are not limited to, the following:

- (1) Public places where parents of children at high risk of remaining unimmunized reside, shop, worship, or recreate.
- (2) School grounds, either during regular hours, or evening hours or on weekends.
- (3) On or adjacent to sites of public- or community-based agencies or programs that either provide or refer persons to public assistance programs or services.

(b) Outreach programs shall, to the extent feasible, include referral components intended to link immunized children with available public or private primary care providers, in order to increase access to continuing pediatric care, including subsequent immunization services as necessary.

120410. The population to be targeted by the program shall include children who do not receive immunizations through private third-party sources or other public sources with priority given to infants and children from birth up to age three. Outreach programs shall include information to the families of children being immunized about possible reactions to the vaccine and about followup referral sources.

120415. The Health and Welfare Agency may waive state administrative, eligibility, and billing requirements that apply to other public assistance programs through which immunization and comprehensive health services outreach and vaccination are offered, for counties that establish streamlined administrative, eligibility, billing, and referral procedures between those public assistance programs, and the immunization and comprehensive health services programs established pursuant to Sections 120400 through 120415, inclusive.

120420. The department shall provide financial assistance to county and areawide immunization campaigns under the direction of local health officers for the prevention of rubella.

120425. All moneys appropriated to the department for the purposes of this section and Section 120420 shall be made available to local health departments, as defined in Section 101185, or to areawide associations of local health departments. All moneys received by the local departments or areawide associations shall be utilized only for the purchase of rubella vaccines, other necessary supplies and equipment for rubella immunization campaigns, and promotional costs of such campaigns. No moneys appropriated for the purpose of this section and Section 120420 shall be used by the department or by any local department or areawide association for administrative purposes, and no such moneys may be used to supplant or support local health department clinics and programs already regularly operated by such the departments, but may be used only for additional county or areawide rubella immunization campaigns. All moneys appropriated for the purposes of this section and Section 120420 shall be expended by March 31, 1971.

120430. (a) The Legislature finds and declares that 1990 marks one of the worst measles epidemics in recent history and that this epidemic threatens the health and safety of our schoolaged children.

The Legislature finds and declares that, according to the Center for Disease Control and the American Academy of Pediatrics, current medical technology suggests that in order to be fully immunized against measles, children should receive two doses of the immunization agent for measles before the age of seven years.

It is the intent of the Legislature to ensure that all possible steps are taken to combat the spread of any disease through California schools.

(b) The department, in consultation with the State Department of Education, shall develop and adopt regulations to ensure that every student in any private or public elementary or secondary school, child care center, day nursery, nursery school, or development center shall have access to full immunization against measles, as determined by the Center for Disease Control, to the extent funds are available.

Priority shall be given to children who have not received any type of measles immunization.

120435. The department shall purchase or prepare, and distribute free of cost, under any regulations as may be necessary, anti-rabic virus to be used in the treatment of persons exposed to rabies when they declare that it would be a hardship for them to pay for anti-rabic treatment.

### CHAPTER 3. IMMUNIZATION REACTIONS

120450. It is the intent of the Legislature to provide for care, including medical, institutional, supportive, and rehabilitative care, necessitated because of severe adverse reaction to any immunization required by state law to be administered to children under 18 years of age.

As used in this chapter, a severe adverse reaction is one that manifests itself not more than 30 days after the immunization and requires extensive medical care, as defined by regulation of the department.

Medical expenses shall be reimbursed by the department in an amount not to exceed twenty-five thousand dollars (\$25,000).

Eligibility for reimbursement under this section shall be limited to persons requiring extensive medical care, as defined by the department pursuant to this section. Such reimbursement shall be made without regard to ability to pay and neither the parents nor the estates of the persons shall be liable for repayment to the state of any portion of the amounts reimbursed pursuant to this chapter.

The department shall, by regulation, establish procedures for processing claims pursuant to this section.

Whenever reimbursement is provided for medical expenses under this chapter, the state shall be subrogated to the rights of the person receiving reimbursement of medical expenses for any amounts due to or recoverable by the person from third parties. The subrogation shall be for an amount equal to any claim reimbursed under this chapter.

There is hereby created in the State Treasury the Immunization Adverse Reaction Fund, that shall be administered by the department and is appropriated without regard to fiscal years.

1999 H&SC 120325 (amended from 1995) Approved October 7, 1999

[ Ch. 747 ]

STATUTES OF 1999

5523

insured employers be considered a premium for computation of a gross premium tax or agents' commission.

## CHAPTER 747

An act to amend Sections 120325 and 120335 of the Health and Safety Code, relating to health.

[Approved by Governor October 7, 1999. Filed with  
Secretary of State October 10, 1999.]

*The people of the State of California do enact as follows:*

SECTION 1. Section 120325 of the Health and Safety Code is amended to read:

120325. In enacting Chapter 1 (commencing with Section 120325, but excluding Section 120380) and in enacting Sections 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases:

- (1) Diphtheria.
- (2) Hepatitis B.
- (3) Haemophilus influenzae type b.
- (4) Measles.
- (5) Mumps.
- (6) Pertussis (whooping cough).
- (7) Poliomyelitis.
- (8) Rubella.
- (9) Tetanus.
- (10) Varicella (chickenpox). This paragraph shall be operative only to the extent that funds for this purpose are appropriated in the annual Budget Act.
- (11) Any other disease that is consistent with the most current recommendations of the United States Public Health Services' Centers for Disease Control Immunization Practices Advisory Committee and the American Academy of Pediatrics Committee of Infectious Diseases, and deemed appropriate by the department.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the department and that a record of the immunization is made in accordance with the regulations.

(c) Exemptions from immunization for medical reasons or because of personal beliefs.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or

guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

SEC. 2. Section 120335 of the Health and Safety Code is amended to read:

120335. (a) As used in Chapter 1 (commencing with Section 120325, but excluding Section 120380), and as used in Sections 120400, 120405, 120410, and 120415, the term "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized. The following are the diseases for which immunizations shall be documented:

- (1) Diphtheria.
- (2) *Haemophilus influenzae* type b, except for children who have reached the age of four years and six months.
- (3) Measles.
- (4) Mumps, except for children who have reached the age of seven years.
- (5) Pertussis (whooping cough), except for children who have reached the age of seven years.
- (6) Poliomyelitis.
- (7) Rubella.
- (8) Tetanus.
- (9) Hepatitis B for all children entering the institutions listed in this subdivision at the kindergarten level or below on or after August 1, 1997.
- (10) Varicella (chickenpox), effective July 1, 2001. Persons already admitted into California public or private schools at the kindergarten level or above before July 1, 2001, shall be exempt from the varicella immunization requirement for school entry. This paragraph shall be operative only to the extent that funds for this purpose are appropriated in the annual Budget Act.

The department may adopt emergency regulations to implement this paragraph including, but not limited to, requirements for documentation and immunization status reports, in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division

3 of Title 2 of the Government Code). The initial adoption of emergency regulations shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this paragraph shall remain in effect for no more than 180 days.

(11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the United States Public Health Services' Centers for Disease Control Immunization Practices Advisory Committee and the American Academy of Pediatrics Committee of Infectious Diseases.

(c) On and after July 1, 1999, the governing authority shall not unconditionally admit any pupil to the 7th grade level, nor unconditionally advance any pupil to the 7th grade level, of any of the institutions listed in subdivision (b) unless the pupil has been fully immunized against hepatitis B.

(d) The department may specify the immunizing agents which may be utilized and the manner in which immunizations are administered.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

## CHAPTER 748

An act to add Sections 681, 1220.5, and 1288.3 to the Business and Professions Code, relating to biological specimens.

[Approved by Governor October 7, 1999. Filed with  
Secretary of State October 10, 1999.]

*The people of the State of California do enact as follows:*

SECTION 1. Section 681 is added to the Business and Professions Code, to read:

681. (a) Commencing July 1, 2000, every person licensed pursuant to this division who collects human biological specimens for clinical testing or examination, shall secure, or ensure that his or her employees, agents, or contractors secure, those specimens in a locked container when those specimens are placed in a public location outside of the custodial control of the licensee, or his or her employees, agents, or contractors.



## 2010 H&amp;SC 120325 (read 120335 (d))

(c) The amendments made to this section by the act<sup>1</sup> that added this subdivision apply for the 2007–08 fiscal year and for each fiscal year thereafter.

SEC. 4. Section 756 of the Revenue and Taxation Code is amended to read:

756. (a) On or before July 31, the board shall transmit to each county auditor a roll showing the unitary and operating nonunitary assessments made by the board in the county and the nonoperating nonunitary assessments made by the board in each city and revenue district in the county; provided, however, that the roll need not show the assessments made by the board in a revenue district which did not levy a tax or assessment during the preceding year. The roll is at all times, during office hours, open to the inspection of any person representing any taxing agency or revenue district, or any district described in Section 2131. If the roll does not show the assessments in a revenue district as herein provided and a notice of a proposed levy is furnished to the board in writing, on or before January 1 preceding the fiscal year for which the levy is to be made, the board shall furnish an estimate of the total assessed value of nonoperating nonunitary state-assessed property in the district and shall transmit thereafter to the county auditor a statement of roll change showing the nonoperating nonunitary assessments made by the board in the district.

(b) Notwithstanding subdivision (a), in making the roll referred to in subdivision (a), the value of property described in paragraph (1) of subdivision (a) of Section 100.1 and the nonunitary value of the property of regulated railway companies, property subject to subdivisions (i), (j), \* \* \* (k), and (l) of Section 100, and property subject to Section 100.9 shall be enrolled by revenue district.

(c) The amendments made to this section by the act<sup>1</sup> that added this subdivision apply for the 2007–08 fiscal year and for each fiscal year thereafter.

SEC. 5. The Legislature finds and declares that a special law is necessary, and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, in order to ensure that the Inland Valley Development Agency receives sufficient tax increment funding to repay loans, or moneys advanced to, or indebtedness incurred by, the redevelopment agency to finance or refinance redevelopment projects.

SEC. 6. Section 1.5 of this bill incorporates amendments to Section 100 of the Revenue and Taxation Code proposed by both this bill and SB 1398. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2011, but this bill becomes operative first, (2) each bill amends Section 100 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1398, in which case Section 100 of the Revenue and Taxation Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 1398, at which time Section 1.5 of this bill shall become operative.

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the Inland Valley Development Agency receives sufficient tax increment funding to repay loans, or moneys advanced to, or indebtedness incurred by, the redevelopment agency to finance or refinance redevelopment projects, it is necessary that this act take effect immediately.

## SOCIAL SERVICES—HEALTH—IMMUNIZATION

### CHAPTER 434

#### A.B. No. 354

<sup>1</sup> Stats.2006, c. 791 (A.B.2670).

<sup>1</sup> Stats.2006, c. 791 (A.B.2670).

**AN ACT to amend Section 120325 of, and to amend, repeal, and add Section 120335 of, the Health and Safety Code, relating to vaccinations.**

[Filed with Secretary of State September 29, 2010.]

**LEGISLATIVE COUNSEL'S DIGEST**

**AB 354, Arambula. Health: immunizations.**

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized against various diseases, including hepatitis B, pertussis (whooping cough), and varicella (chickenpox), and any other disease deemed appropriate by the State Department of Public Health, taking into consideration the recommendations of specified entities.

This bill would add to these entities the American Academy of Family Physicians.

This bill would also, in part, remove certain of the age and date restrictions.

Existing law makes these provisions, as they relate to varicella (chickenpox), operative only to the extent that funds are appropriated in the annual Budget Act, and authorizes the department to adopt emergency regulations, as specified.

This bill would, regarding the varicella (chickenpox) provisions, delete the requirement that it be operative only to the extent that funds are appropriated in the annual Budget Act, and delete the department's authorization to adopt emergency regulations.

Existing law prohibits the governing authority from unconditionally admitting, or advancing, a pupil into the 7th grade unless the pupil has been fully immunized against hepatitis B.

This bill would delete immunizations against hepatitis B as a 7th grade admission or advancement requirement and would, instead, prohibit the governing authority from unconditionally admitting, or advancing, a pupil into the 7th and, for one year, the 8th through 12th grades unless the pupil has been fully immunized, as prescribed, including, but not limited to, having received all pertussis boosters appropriate for that age.

By requiring school districts to comply with these requirements, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*The people of the State of California do enact as follows:*

**SECTION 1.** Section 120325 of the Health and Safety Code is amended to read:

120325. In enacting this chapter \* \* \*, but excluding Section 120380, and in enacting Sections 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases:

- (1) Diphtheria.
- (2) Hepatitis B.
- (3) Haemophilus influenzae type b.
- (4) Measles.
- (5) Mumps.
- (6) Pertussis (whooping cough).
- (7) Poliomyelitis.

Additions or changes indicated by underline; deletions by asterisks \* \* \*

**2113**

(8) Rubella.

(9) Tetanus.

(10) Varicella (chickenpox). \* \* \*

(11) Any other disease \* \* \* deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States \* \* \* Department of Health and \* \* \* Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the department and that a record of the immunization is made in accordance with the regulations.

(c) Exemptions from immunization for medical reasons or because of personal beliefs.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

SEC. 2. Section 120335 of the Health and Safety Code is amended to read:

120335. (a) As used in this chapter \* \* \*, but excluding Section 120380 \* \* \*, and as used in Sections 120400, 120405, 120410, and 120415, the term "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized. The following are the diseases for which immunizations shall be documented:

(1) Diphtheria.

(2) Haemophilus influenzae type b \* \* \*.

(3) Measles.

(4) Mumps \* \* \*.

(5) Pertussis (whooping cough) \* \* \*.

(6) Poliomyelitis.

(7) Rubella.

(8) Tetanus.

(9) Hepatitis B \* \* \*.

(10) Varicella (chickenpox) \* \* \*.

(11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(c) Commencing July 1, 2011, notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority admits or advances any pupil to the 7th grade level of any private or public elementary or secondary school.

(d) Commencing July 1, 2011, the governing authority shall not unconditionally admit or advance any pupil to the 7th through 12th grade levels, inclusive, of any private or public elementary or secondary school unless the pupil has been fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age.

(e) The department may specify the immunizing agents which may be utilized and the manner in which immunizations are administered.

(f) This section shall become inoperative on June 30, 2012, and as of January 1, 2013, is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

(g) The department may adopt emergency regulations to implement \* \* \* subdivisions (c) and (d) including, but not limited to, requirements for documentation and immunization status reports, in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The initial adoption of emergency regulations shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

\* \* \*

SEC. 3. Section 120335 is added to the Health and Safety Code, to read:

120335. (a) As used in this chapter, but excluding Section 120380, and as used in Sections 120400, 120405, 120410, and 120415, the term "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized. The following are the diseases for which immunizations shall be documented:

- (1) Diphtheria.
- (2) Haemophilus influenzae type b.
- (3) Measles.
- (4) Mumps.
- (5) Pertussis (whooping cough).
- (6) Poliomyelitis.
- (7) Rubella.
- (8) Tetanus.
- (9) Hepatitis B.
- (10) Varicella (chickenpox).

(11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(c) Notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority shall admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school.

(d) The governing authority shall not unconditionally admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school unless the pupil has been fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age.

(e) The department may specify the immunizing agents which may be utilized and the manner in which immunizations are administered.

(f) This section shall become operative on July 1, 2012.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs

shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

## SOCIAL SERVICES—ELECTRONIC BENEFIT TRANSFERS—FARMERS' MARKETS

### CHAPTER 435

A.B. No. 537

AN ACT to add Section 10072.1 to the Welfare and Institutions Code, relating to public benefits.

[Filed with Secretary of State September 29, 2010.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 537, Arambula. Farmers' markets: electronic benefit transfers.

Existing law, administered by the State Department of Social Services, provides for the establishment of a statewide electronic benefit transfer (EBT) system for the purpose of providing financial and food assistance benefits to needy Californians.

This bill would allow an interested collective group or association of produce sellers that is Food and Nutrition Service (FNS) authorized and in a flea market, farmers' market, or certified farmers' market to initiate and operate an EBT acceptance system in the market, as specified. The bill would provide that an individual produce seller in a market is not prohibited from operating his or her own individual EBT acceptance activity as part of that seller's personal business customer transaction offering.

*The people of the State of California do enact as follows:*

SECTION 1. Section 10072.1 is added to the Welfare and Institutions Code, to read:

10072.1. (a) The Legislature finds and declares that flea markets, farmers' markets, and certified farmers' markets are important sources of low-cost produce for Californians in need of food assistance.

(b)(1) An interested collective group or association of produce sellers that is Food and Nutrition Service (FNS) authorized and actively participating in produce sales in a market described in subdivision (a) may initiate and operate an electronic benefit transfer (EBT) acceptance system on behalf of its members, to the extent and manner allowed by federal law and regulation. The market operator shall allow and accommodate the FNS-authorized group or association in a reasonable manner that aids in the creation, implementation, and operation of its EBT acceptance system. The allowance and accommodation by the market operator mandated by this section is limited solely to the activity of the operation of the EBT acceptance system by the group or association. No other activities are authorized without the express permission of the market operator.

(2) This subdivision shall not apply to a market described in subdivision (a) that currently or subsequently operates an EBT acceptance system.

(c) Nothing in this section or any other provision of law shall prohibit an individually FNS-authorized produce seller in a market described in subdivision (a) from operating his or her own individual EBT acceptance activity as part of that seller's personal business customer transaction offering.

(d) Nothing in this section shall be interpreted to require a market described in subdivision (a) to itself create, operate, or maintain an EBT acceptance system on behalf of its produce sellers.

**2116**

Additions or changes indicated by underline; deletions by asterisks \* \* \*

## Colorado

LexisNexis Academic

### COLORADO REVISED STATUTES

\*\*\* This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) \*\*\*

TITLE 25. HEALTH  
DISEASE CONTROL  
ARTICLE 4.DISEASE CONTROL  
PART 9. SCHOOL ENTRY IMMUNIZATION

[GO TO COLORADO STATUTES ARCHIVE DIRECTORY](#)

**C.R.S. 25-4-903 (2013)**

**25-4-903. Exemptions from immunization**

(1) (Deleted by amendment, L. 97, p. 409, § 2, effective July 1, 1997.)

(2) It is the responsibility of the parent or legal guardian to have his or her child immunized unless the child is exempted pursuant to this section. A student shall be exempted from receiving the required immunizations in the following manner:

(a) By submitting to the student's school certification from a licensed physician or advanced practice nurse that the physical condition of the student is such that one or more specified immunizations would endanger his or her life or health or is medically contraindicated due to other medical conditions; or

(b) By submitting to the student's school a statement of exemption signed by one parent or guardian or the emancipated student or student eighteen years of age or older that the parent, guardian, or student is an adherent to a religious belief whose teachings are opposed to immunizations or that the parent or guardian or the emancipated student or student eighteen years of age or older has a personal belief that is opposed to immunizations.

(3) The state board of health may provide, by regulation, for further exemptions to immunization based upon sound medical practice.

(4) All information distributed to parents by school districts regarding immunization shall inform them of their rights under subsection (2) of this section.

**HISTORY:** Source: L. 78: Entire part R&RE, p. 428, § 1, effective April 4. L. 91: (1) and (2) amended, p. 932, § 3, effective April 16. L. 93: (1) amended, p. 380, § 3, effective April 12. L. 97: Entire section amended, p. 409, § 2, effective July 1. L. 2008: (2)(a) amended, p. 132, § 17, effective January 1, 2009.



1991 (1) and (2) amended, p. 932, § 3 25-4-903 (effective April, 1993)

Ch. 170

Health

931

## CHAPTER 170

# HEALTH

SENATE BILL 91-52.

BY SENATORS Gallagher, Allison, Hopper, J. Johnson, McCormick, Mendez, Norton, Pascoe, Pastore, Peterson, Tebedo, Traylor, and Wham;  
also REPRESENTATIVES Pankey, Blickensderfer, P. Hernandez, Jones, Shoemaker, Sullivan, and Swenson.

## AN ACT

**CONCERNING A REQUIREMENT THAT STUDENTS PROVIDE EVIDENCE OF IMMUNIZATION PRIOR TO ATTENDANCE AT COLLEGES AND UNIVERSITIES.**

*Be it enacted by the General Assembly of the State of Colorado:*

Section 1. 25-4-901, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-901. Definitions.** As used in this part 9, unless the context otherwise requires:

(1) "CHILD" MEANS ANY STUDENT LESS THAN EIGHTEEN YEARS OF AGE.

~~(1)~~ (2) "School" means a public, private, or parochial nursery school, day care center, child care facility, family care home, head start program, kindergarten, ~~or~~ elementary or secondary school through grade twelve, OR COLLEGE OR UNIVERSITY.

(3) "STUDENT" MEANS ANY PERSON ENROLLED IN A COLORADO SCHOOL AS DEFINED IN SUBSECTION (2) OF THIS SECTION.

Section 2. Part 9 of article 4 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

**25-4-902.5. Immunization prior to attending a college or university.**  
(1) EXCEPT AS PROVIDED IN SECTION 25-4-903, NO STUDENT SHALL ATTEND ANY COLLEGE OR UNIVERSITY IN THE STATE OF COLORADO ON OR AFTER THE DATES SPECIFIED IN SECTION 25-4-906 (4) UNLESS SUCH STUDENT CAN PRESENT TO THE APPROPRIATE OFFICIAL OF THE SCHOOL A CERTIFICATE OF IMMUNIZATION FROM A LICENSED PHYSICIAN OR AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT OF HEALTH OR LOCAL HEALTH DEPARTMENT STATING THAT SUCH STUDENT HAS

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*



RECEIVED IMMUNIZATION AGAINST COMMUNICABLE DISEASES AS SPECIFIED BY THE STATE BOARD OF HEALTH OR A WRITTEN AUTHORIZATION SIGNED BY ONE PARENT OR GUARDIAN OR THE EMANCIPATED STUDENT OR THE STUDENT EIGHTEEN YEARS OF AGE OR OLDER REQUESTING THAT LOCAL HEALTH OFFICIALS ADMINISTER THE IMMUNIZATIONS OR A PLAN SIGNED BY ONE PARENT OR GUARDIAN OR THE EMANCIPATED STUDENT OR THE STUDENT EIGHTEEN YEARS OF AGE OR OLDER FOR RECEIPT BY THE STUDENT OF THE REQUIRED INOCULATION OR THE FIRST OR THE NEXT REQUIRED OF A SERIES OF INOCULATIONS WITHIN THIRTY DAYS.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1994.

Section 3. 25-4-903 (1) and (2), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-903. Exceptions from immunization.** (1) A ~~child~~ STUDENT who transfers into a school may enter school provisionally and shall have sixty days in which to submit a certificate of immunization. Any ~~child~~ STUDENT for whom a certificate of immunization is not submitted within sixty days shall be suspended or expelled from school until a certificate of immunization is provided.

(2) A ~~child~~ STUDENT shall be exempted from receiving the required immunizations:

(a) Upon submitting certification from a licensed physician that the physical condition of the ~~child~~ STUDENT is such that one or more specified immunizations would endanger his life or health OR IS MEDICALLY CONTRAINDICATED DUE TO OTHER MEDICAL CONDITIONS;

(b) Upon submitting a statement signed by one parent or guardian or the emancipated ~~child~~ STUDENT OR STUDENT EIGHTEEN YEARS OF AGE OR OLDER that the parent, guardian, or ~~child~~ STUDENT is an adherent to a religious belief whose teachings are opposed to immunizations or that the parent or guardian or the emancipated ~~child~~ STUDENT OR STUDENT EIGHTEEN YEARS OF AGE OR OLDER has a personal belief that is opposed to immunizations.

Section 4. 25-4-906 (2) and (4), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-906. Certificate of immunization - forms.** (2) Each school shall maintain on file an official certificate of immunization for every ~~child~~ STUDENT enrolled. ~~as a student.~~ The certificate shall be returned to the parent or guardian or the emancipated ~~child~~ STUDENT OR STUDENT EIGHTEEN YEARS OF AGE OR OLDER when a ~~child~~ STUDENT withdraws, transfers, is promoted, or otherwise leaves the school, or the school shall transfer the certificate with the ~~child's~~ STUDENT'S school record to the new school.

(4) All ~~children~~ STUDENTS enrolled in any school in Colorado on and after August 15, 1979, shall furnish the required certificate of immunization or shall be suspended or expelled from school. ~~Children~~ STUDENTS enrolling in school in Colorado for the first time on and after July 1, 1978, shall

provide a certificate of immunization or shall be excluded from school except as provided in section 25-4-903.

Section 5. 25-4-907, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-907. Noncompliance.** (1) ~~The board of education~~ A SCHOOL OFFICIAL of each school district shall suspend or expel from school, pursuant to the provisions of section 22-33-105, C.R.S., OR THE PROVISIONS ESTABLISHED BY THE SCHOOL OFFICIAL OF A COLLEGE OR UNIVERSITY OR PRIVATE SCHOOL, any ~~child~~ STUDENT enrolled as a student not otherwise exempted under this part 9 who fails to comply with the provisions of this part 9. No ~~child~~ STUDENT shall be suspended or expelled for failure to comply with the provisions of this part 9 unless there has been a direct personal notification by the appropriate school authority to the ~~child's~~ STUDENT'S parent or guardian or to the emancipated ~~child~~ STUDENT OR THE STUDENT EIGHTEEN YEARS OF AGE OR OLDER of the noncompliance with this part 9 and of their rights under sections 25-4-902, 25-4-902.5, and 25-4-903.

(2) In the event of suspension or expulsion OF A CHILD, school officials shall notify the state or local department of health. An agent of the department shall then contact the parent or guardian or the emancipated ~~child~~ STUDENT OR STUDENT EIGHTEEN YEARS OF AGE OR OLDER in an effort to secure compliance with this part 9 in order that the ~~child~~ STUDENT may be reenrolled in school.

Section 6. **Applicability.** This act shall apply to all college or university students enrolling on or after the effective date of this act.

Section 7. **Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 16, 1991

1997 ; Entire section amended, p. 409, § 2 (Effective July 1, 1998)

122

Health and Environment

Ch. 49

CHAPTER 49

**HEALTH AND ENVIRONMENT**

HOUSE BILL 97-1113

BY REPRESENTATIVES Sullivan, Entz, and Young;  
also SENATORS Norton, Hopper, and Rupert.

**AN ACT**

CONCERNING INDIVIDUAL SEWAGE DISPOSAL SYSTEMS.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 10 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended, WITH THE RELOCATION OF PROVISIONS, to read:

**ARTICLE 10**

**Individual Sewage Disposal Systems Act**

**25-10-101. Short title.** This article shall be known and may be cited as the "Individual Sewage Disposal Systems Act".

**25-10-102. Legislative declaration.** In order to preserve the environment and protect the public health AND WATER QUALITY; to eliminate and control causes of disease, infection, and aerosol contamination; and to reduce and control the pollution of the air, land, and water, it is declared to be in the public interest to establish minimum standards AND rules ~~and regulations~~ for individual sewage disposal systems in the state of Colorado and to provide the authority for the administration and enforcement of such minimum standards AND rules. ~~and regulations.~~

**25-10-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Absorption system" means a leaching field and adjacent soils or other system for the treatment of sewage in an individual sewage disposal system by means of absorption into the ground.

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

~~(c) A plan signed by one parent or guardian or the emancipated child demonstrating that required immunizations for the child will begin or will be resumed within thirty days from the date the plan was signed.~~

(2) IF THE STUDENT'S CERTIFICATE OF IMMUNIZATION IS NOT UP-TO-DATE ACCORDING TO THE REQUIREMENTS OF THE STATE BOARD OF HEALTH, THE PARENT OR GUARDIAN OR THE EMANCIPATED STUDENT OR THE STUDENT EIGHTEEN YEARS OF AGE OR OLDER SHALL SUBMIT TO THE SCHOOL, WITHIN FOURTEEN DAYS AFTER RECEIVING DIRECT PERSONAL NOTIFICATION THAT THE CERTIFICATE IS NOT UP-TO-DATE, DOCUMENTATION THAT THE NEXT REQUIRED IMMUNIZATION HAS BEEN GIVEN AND A WRITTEN PLAN FOR COMPLETION OF ALL REQUIRED IMMUNIZATIONS. THE SCHEDULING OF IMMUNIZATIONS IN THE WRITTEN PLAN SHALL FOLLOW MEDICALLY RECOMMENDED MINIMUM INTERVALS APPROVED BY THE STATE BOARD OF HEALTH. IF THE STUDENT BEGINS BUT DOES NOT CONTINUE OR COMPLETE THE WRITTEN PLAN, HE OR SHE SHALL BE SUSPENDED OR EXPELLED PURSUANT TO THIS PART 9.

**SECTION 2.** 25-4-903, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-903. Exemptions from immunization.** ~~(1) A student who transfers into a school may enter school provisionally and shall have sixty days in which to submit a certificate of immunization. Any student for whom a certificate of immunization is not submitted within sixty days shall be suspended or expelled from school until a certificate of immunization is provided. Any student expelled pursuant to this part 9 shall not be included in calculating the dropout rate for the school from which such student was expelled or the school district in which such student was enrolled prior to being expelled. Such student shall be included in the annual report of the number of expelled students prepared pursuant to section 22-33-105, C.R.S.~~

(2) IT IS THE RESPONSIBILITY OF THE PARENT OR LEGAL GUARDIAN TO HAVE HIS OR HER CHILD IMMUNIZED UNLESS THE CHILD IS EXEMPTED PURSUANT TO THIS SECTION. A student shall be exempted from receiving the required immunizations IN THE FOLLOWING MANNER:

(a) ~~Upon~~ BY submitting TO THE STUDENT'S SCHOOL certification from a licensed physician that the physical condition of the student is such that one or more specified immunizations would endanger his OR HER life or health or is medically contraindicated due to other medical conditions; OR

(b) ~~Upon~~ BY submitting TO THE STUDENT'S SCHOOL a statement OF EXEMPTION signed by one parent or guardian or the emancipated student or student eighteen years of age or older that the parent, guardian, or student is an adherent to a religious belief whose teachings are opposed to immunizations or that the parent or guardian or the emancipated student or student eighteen years of age or older has a personal belief that is opposed to immunizations.

(3) The state board of health may provide, by regulation, for further exemptions to immunization based upon sound medical practice.

(4) ALL INFORMATION DISTRIBUTED TO PARENTS BY SCHOOL DISTRICTS REGARDING IMMUNIZATION SHALL INFORM THEM OF THEIR RIGHTS UNDER SUBSECTION (2) OF THIS SECTION.

**SECTION 3.** 25-4-907, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-907. Noncompliance.** (1) A school official of each school shall suspend or expel from school, pursuant to the provisions of section 22-33-105, C.R.S., or the provisions established by the school official of a college or university or private school, any student not otherwise exempted under this part 9 who fails to comply with the provisions of this part 9. No student shall be suspended or expelled for failure to comply with the provisions of this part 9 unless there has been a direct personal notification by the appropriate school authority to the student's parent or guardian or to the emancipated student or the student eighteen years of age or older of the noncompliance with this part 9 and of such person's rights under sections 25-4-902, 25-4-902.5, and 25-4-903.

(2) In the event of suspension or expulsion of a student, school officials shall notify the state department of public health and environment or local department of health. An agent of said department shall then contact the parent or guardian or the emancipated student or student eighteen years of age or older in an effort to secure compliance with this part 9 in order that the student may be reenrolled in school.

(3) ANY STUDENT EXPELLED FOR FAILURE TO COMPLY WITH THE PROVISIONS OF THIS PART 9 SHALL NOT BE INCLUDED IN CALCULATING THE DROPOUT RATE FOR THE SCHOOL FROM WHICH SUCH STUDENT WAS EXPELLED OR THE SCHOOL DISTRICT IN WHICH SUCH STUDENT WAS ENROLLED PRIOR TO BEING EXPELLED. SUCH STUDENT SHALL BE INCLUDED IN THE ANNUAL REPORT OF THE NUMBER OF EXPELLED STUDENTS PREPARED PURSUANT TO SECTION 22-33-105, C.R.S.

**SECTION 4.** 22-33-105 (2.5), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**22-33-105. Suspension, expulsion, and denial of admission.** (2.5) Each board of education shall annually report to the state board the number of students expelled from schools within the district pursuant to this section and pursuant to section ~~25-4-903~~, 25-4-907, C.R.S. Any pupil who is expelled pursuant to this section shall not be included in calculating the dropout rate for the school from which such student is expelled or in calculating the dropout rate for the school district in which such pupil was enrolled prior to being expelled.

**SECTION 5. Effective date.** This act shall take effect July 1, 1997.

**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 24, 1997

2008 : (2)(a) amended, p. 132, § 17 (effective January 1, 2009)

132

Professions and Occupations

Ch. 51

health and environment is authorized to arrange for hospitalization and to provide and furnish such medical treatment as may be determined to be necessary. Nothing in this section shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

**SECTION 14.** 25-4-506 (2), Colorado Revised Statutes, is amended to read:

**25-4-506. Investigation and examination of suspected tuberculosis cases - isolation - quarantine.** (2) Whenever the chief medical health officer determines on reasonable grounds that an examination of any person is necessary for the preservation and protection of the public health, he OR SHE shall issue a written order directing medical examination, setting forth the name of the person to be examined, the time and place of the examination, and such other terms and conditions as he OR SHE may deem necessary. A copy of such order shall be served upon the patient. Such an examination may be made by a licensed physician OR ADVANCED PRACTICE NURSE of the examinee's own choice under such terms and conditions as the health officer shall specify.

**SECTION 15.** 25-4-902 (1) (a), Colorado Revised Statutes, is amended to read:

**25-4-902. Immunization prior to attending school.** (1) Except as provided in section 25-4-903, no child shall attend any school in the state of Colorado on or after the dates specified in section 25-4-906 (4) unless he or she has presented the following to the appropriate school official:

(a) An up-to-date certificate of immunization from a licensed physician, A LICENSED ADVANCED PRACTICE NURSE, or authorized representative of the department of public health and environment or local health department stating that ~~such~~ THE child has received immunization against communicable diseases as specified by the state board of health, based on recommendations of the advisory committee on immunization practices of the United States department of health and human services or the American academy of pediatrics; or

**SECTION 16.** 25-4-902.5 (1), Colorado Revised Statutes, is amended to read:

**25-4-902.5. Immunization prior to attending a college or university.** (1) Except as provided in section 25-4-903, no student shall attend any college or university in the state of Colorado on or after the dates specified in section 25-4-906 (4) unless such student can present to the appropriate official of the school a certificate of immunization from a licensed physician, A LICENSED ADVANCED PRACTICE NURSE, or authorized representative of the department of public health and environment or local health department stating that ~~such~~ THE student has received immunization against communicable diseases as specified by the state board of health or a written authorization signed by one parent or guardian or the emancipated student or the student eighteen years of age or older requesting that local health officials administer the immunizations or a plan signed by one parent or guardian or the emancipated student or the student eighteen years of age or older for receipt by the student of the required inoculation or the first or the next required of a series of inoculations within thirty days.

**SECTION 17.** 25-4-903 (2) (a), Colorado Revised Statutes, is amended to read:

**25-4-903. Exemptions from immunization.** (2) It is the responsibility of the parent or legal guardian to have his or her child immunized unless the child is exempted pursuant to this section. A student shall be exempted from receiving the required immunizations in the following manner:

(a) By submitting to the student's school certification from a licensed physician OR ADVANCED PRACTICE NURSE that the physical condition of the student is such that one or more specified immunizations would endanger his or her life or health or is medically contraindicated due to other medical conditions; or

**SECTION 18.** 25-4-905 (1), Colorado Revised Statutes, is amended to read:

**25-4-905. Immunization of indigent children.** (1) The local health department, a public health or school nurse under the supervision of a licensed physician, or the department of public health and environment in the absence of a local health department or public health nurse shall provide, at public expense to the extent that funds are available, immunizations required by this part 9 to each child whose parents or guardians cannot afford to have the child immunized or, if emancipated, who cannot himself or herself afford immunization and who has not been exempted. The department of public health and environment shall provide all vaccines necessary to comply with this section as far as funds will permit. Nothing in this section shall preclude the department of public health and environment from distributing vaccines to physicians, ADVANCED PRACTICE NURSES, or others as required by law or the rules of the department. No indigent child shall be excluded, suspended, or expelled from school unless the immunizations have been available and readily accessible to the child at public expense.

**SECTION 19.** 25-4-1704 (4) (a), Colorado Revised Statutes, is amended to read:

**25-4-1704. Infant immunization program - delegation of authority to immunize minor.** (4) An infant shall be exempted from receiving the required immunizations:

(a) Upon submitting certification from a licensed physician OR ADVANCED PRACTICE NURSE that the physical condition of the infant is such that one or more specified immunizations would endanger the infant's life or health; or

**SECTION 20.** 25-6-203, Colorado Revised Statutes, is amended to read:

**25-6-203. Extent of services.** Such Family planning and birth control services shall include: Interview with trained personnel; distribution of literature; referral to a licensed physician OR ADVANCED PRACTICE NURSE for consultation, examination, tests, medical treatment and prescription; and, to the extent so prescribed, the distribution of rhythm charts, drugs, medical preparations, contraceptive devices, and similar products.

**SECTION 21.** 25.5-6-504 (1), Colorado Revised Statutes, is amended to read:

**25.5-6-504. Program established - financial eligibility.** (1) In recognition of the social and economic benefits accruing from the maintenance of persons with HIV/AIDS in their own homes, the general assembly hereby finds and declares that

## Connecticut

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\*\*\* Current through 2013 Legislation \*\*\*

Title 10 Education and Culture  
Chapter 169 School Health and Sanitation

Conn. Gen. Stat. § 10-204a (2013)

Sec. 10-204a. Required immunizations. Temporary waiver.

(a) Each local or regional board of education, or similar body governing a nonpublic school or schools, shall require each child to be protected by adequate immunization against diphtheria, pertussis, tetanus, poliomyelitis, measles, mumps, rubella, hemophilus influenzae type B and any other vaccine required by the schedule for active immunization adopted pursuant to section 19a-7f before being permitted to enroll in any program operated by a public or nonpublic school under its jurisdiction. Before being permitted to enter seventh grade, a child shall receive a second immunization against measles. Any such child who (1) presents a certificate from a physician, physician assistant, advanced practice registered nurse or local health agency stating that initial immunizations have been given to such child and additional immunizations are in process under guidelines and schedules specified by the Commissioner of Public Health; or (2) presents a certificate from a physician, physician assistant or advanced practice registered nurse stating that in the opinion of such physician, physician assistant or advanced practice registered nurse such immunization is medically contraindicated because of the physical condition of such child; or (3) presents a statement from the parents or guardian of such child that such immunization would be contrary to the religious beliefs of such child; or (4) in the case of measles, mumps or rubella, presents a certificate from a physician, physician assistant or advanced practice registered nurse or from the director of health in such child's present or previous town of residence, stating that the child has had a confirmed case of such disease; or (5) in the case of hemophilus influenzae type B has passed his fifth birthday; or (6) in the case of pertussis, has passed his sixth birthday, shall be exempt from the appropriate provisions of this section. If the parents or guardians of any children are unable to pay for such immunizations, the expense of such immunizations shall, on the recommendations of such board of education, be paid by the town.



(b) The definitions of adequate immunization shall reflect the schedule for active immunization adopted pursuant to section 19a-7f and be established by regulation adopted in accordance with the provisions of chapter 54 by the Commissioner of Public Health, who shall also be responsible for providing procedures under which said boards and said similar governing bodies shall collect and report immunization data on each child to the Department of Public Health for compilation and analysis by said department.

(c) The Commissioner of Public Health may issue a temporary waiver to the schedule for active immunization for any vaccine if the National Centers for Disease Control and Prevention recognizes a nation-wide shortage of supply for such vaccine.

**HISTORY:** 1959, P.A. 588, S. 1; 1969, P.A. 42, S. 1; P.A. 73-510, S. 1, 2; P.A. 77-52, S. 1; P.A. 78-165, S. 1, 5; 78-218, S. 131; P.A. 81-139; P.A. 84-46; P.A. 91-327, S. 3, 8; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 96-244, S. 16, 63; P.A. 98-252, S. 39, 80; P.A. 11-242, S. 13.

1991 P.A. 91-327, S. 3, 8 (section 3 (a) (2&amp;3)) Effective June 30, 1991

**JANUARY 1991****P.A. 91-327****855**

short-lived radioactive materials for decay and disposal by conventional means provided this practice is specifically authorized in such facility's license.

Sec. 3. Subsection (a) of section 28-31 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The department of public utility control shall establish a nuclear safety emergency preparedness account, which shall be a separate, nonlapsing account within the general fund, and which shall be financed through assessments of all Nuclear Regulatory Commission licensees operating nuclear power generating facilities in the state. The department shall initially assess the licensees for a total of two million dollars. At such time as the balance of this account falls below three hundred thousand dollars, the department may assess licensees for such amounts as necessary for the purposes of the account, provided the balance in the account may not exceed three hundred thousand dollars. The department, upon request of the director of the office of emergency management and with the approval of the secretary of the office of policy and management, may assess the licensees for special nonrecurring expenses in any year for a total not to exceed one hundred thousand dollars, provided the balance in the account does not at any time exceed three hundred thousand dollars. THE DEPARTMENT SHALL ALSO ANNUALLY ASSESS THE LICENSEES, UPON THE REQUEST OF THE DIRECTOR OF EMERGENCY MANAGEMENT, FOR FUNDING TO SUPPORT ANNUAL EXPENSES OF THREE STAFF POSITIONS IN THE DEPARTMENT OF ENVIRONMENTAL PROTECTION RADIATION AND NOISE CONTROL DIVISION AND TWO STAFF POSITIONS IN THE OFFICE OF EMERGENCY MANAGEMENT. PERSONNEL SHALL BE ASSIGNED TO SAID STAFF POSITIONS SOLELY FOR THE PURPOSES OF THE PROGRAM ESTABLISHED PURSUANT TO SUBSECTION (b) OF THIS SECTION. Federal reimbursements and grants obtained in support of the nuclear safety emergency preparedness program shall be paid into the general fund and credited to the account. The department shall develop an equitable method of assessing the licensees for their reasonable pro-rata share of such assessments. All such assessments shall be included as operating expenses of the licensees for purposes of rate-making. All moneys within the account shall be invested by the state treasurer in accordance with established investment practices and all interest earned by such investments shall be returned to the account.

Sec. 4. This act shall take effect June 30, 1991.

Substitute Senate Bill No. 342

## **PUBLIC ACT NO. 91-327**

### **AN ACT CONCERNING UNIVERSAL CHILDHOOD IMMUNIZATION AND REQUIRING TESTING OF CHILDREN FOR LEAD LEVELS IN THE BLOOD.**

Section 1. (NEW) The standard of care for immunization for the children of this state shall be the recommended schedule for active immunization for normal infants and children published by the committee on infectious diseases of the American Academy of Pediatrics or the schedule published by the National Immunization Practices Advisory Committee, as determined by the commissioner of health services. The commissioner shall establish, within available appropriations, an immunization program which shall: (1) Provide vaccine at no cost to health care providers in Connecti-

cut to administer to children so that cost of vaccine will not be a barrier to age-appropriate vaccination in this state; (2) with the assistance of hospital maternity programs, provide all parents in this state with the recommended immunization schedule for normal infants and children, a booklet to record immunizations at the time of the infant's discharge from the hospital nursery and a list of sites where immunization may be provided; (3) to inform in a timely manner all health care providers of changes in the recommended immunization schedule; (4) assist hospitals, local health providers and local health departments to develop and implement record-keeping and outreach programs to identify and immunize those children who have fallen behind the recommended immunization schedule or who lack access to regular preventative health care and have the authority to gather such data as may be needed to evaluate such efforts; (5) assist in the development of a program to assess the vaccination status of children who are clients of state and federal programs serving the health and welfare of children and make provision for vaccination of those who are behind the recommended immunization schedule; (6) access available federal funds including, but not limited to, any funds available through the federal Childhood Immunization Reauthorization or any funds available through the Medicaid program; and (7) develop and make available to parents and health care providers public health educational materials about the benefits of timely immunization.

Sec. 2. (NEW) There is established a childhood immunization advisory council consisting of the commissioners of health services, income maintenance, education and human resources or their designees; a representative of the commission on children; a representative of the American Academy of Pediatrics, to be appointed by the president pro tempore of the senate; a representative of the Association of Primary Health Care Providers, to be appointed by the minority leader of the senate; a representative of the Legal Aid Society, to be appointed by the speaker of the house of representatives; and a public member who is a parent of a child who is eligible for Medicaid or uninsured, to be appointed by the minority leader of the house of representatives. The chairperson and the vice-chairperson of the council shall be elected by the full membership of the council and shall serve for a term of one year. The council shall meet at least twice a year. Council members shall serve without compensation. The council shall advise the department of health services on the development, implementation, monitoring and evaluation of the universal childhood immunization program established pursuant to section 1 of this act.

Sec. 3. Section 10-204a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Each local or regional board of education, or similar body governing a nonpublic school or schools, shall require each child to be protected by adequate immunization against diphtheria, pertussis, tetanus, poliomyelitis, measles, mumps, [and] rubella, HEMOPHILUS INFLUENZAE TYPE B AND ANY OTHER VACCINE REQUIRED BY THE SCHEDULE FOR ACTIVE IMMUNIZATION ADOPTED PURSUANT TO SECTION 1 OF THIS ACT before being permitted to attend any public or nonpublic elementary or secondary school under its jurisdiction. BEFORE BEING PERMITTED TO ENTER SEVENTH GRADE, A CHILD SHALL RECEIVE A SECOND IMMUNIZATION AGAINST MEASLES. Any such child who (1) presents a certificate from a physician or local health agency stating that initial immunizations have been given to such child and additional immunizations are in process under guidelines and schedules specified by the commissioner of health services; or (2) presents a certificate from a physician stating that in the opinion of such physician, such immunization is medically contraindicated because of the physical condition of such child; or (3) presents a statement from the parents or guardian of such

child that such immunization would be contrary to the religious beliefs of such child; or (4) in the case of measles, mumps or rubella, presents a certificate from a physician or from the director of health in such child's present or previous town of residence, stating that the child has had a confirmed case of such disease; or (5) IN THE CASE OF HEMOPHILUS INFLUENZAE TYPE B HAS PASSED HIS FIFTH BIRTHDAY OR [(5)] (6) in the case of pertussis, has passed his sixth birthday, shall be exempt from the appropriate provisions of this section.

(b) The definitions of adequate immunization shall REFLECT THE SCHEDULE FOR ACTIVE IMMUNIZATION ADOPTED PURSUANT TO SECTION 1 OF THIS ACT AND be established by regulation adopted in accordance with the provisions of chapter 54 by the commissioner of health services, who shall also be responsible for providing procedures under which said boards and said similar governing bodies shall collect and report immunization data on each child to the department of health services for compilation and analysis by said department.

Sec. 4. Subsection (a) of section 19a-79 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The commissioner of health services shall adopt regulations to further the purposes of sections 19a-77 to 19a-80, inclusive, and 19a-81 to 19a-87, inclusive, and to assure that child day care centers and group day care homes shall meet the health, educational and social needs of children utilizing such centers and group day care homes. Such regulations shall (1) SPECIFY THAT BEFORE BEING PERMITTED TO ATTEND ANY CHILD DAY CARE CENTER OR GROUP DAY CARE HOME, EACH CHILD MUST BE PROTECTED AS AGE-APPROPRIATE BY ADEQUATE IMMUNIZATION AGAINST DIPHTHERIA, PERTUSSIS, TETANUS, POLIOMYELITIS, MEASLES, MUMPS, RUBELLA, HEMOPHILUS INFLUENZAE TYPE B AND ANY OTHER VACCINE REQUIRED BY THE SCHEDULE OF ACTIVE IMMUNIZATION ADOPTED PURSUANT TO SECTION 1 OF THIS ACT INCLUDING APPROPRIATE EXEMPTIONS FOR CHILDREN FOR WHOM SUCH IMMUNIZATION IS MEDICALLY CONTRAINDICATED AND FOR CHILDREN WHOSE PARENTS OBJECT TO SUCH IMMUNIZATION ON RELIGIOUS GROUNDS AND (2) specify conditions under which child day care center directors and teachers and group day care home providers may administer medicinal preparations, including controlled drugs specified in the regulations by the commissioner, to a child receiving child day care services at such center or group day care home pursuant to the written order of a physician licensed to practice medicine or a dentist licensed to practice dental medicine in this or another state and the written authorization of a parent or guardian of such child.

Sec. 5. Section 17-585 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The department of human resources shall be the lead agency for child day care services in Connecticut. The department shall: (1) identify, annually, existing child day care services and maintain an inventory of all available services; (2) provide technical assistance to corporations and private agencies in the development and expansion of child day care services for families at all income levels, including families of their employees and clients; (3) study and identify funding sources available for child day care including federal funds and tax benefits; (4) study the cost and availability of liability insurance for child day care providers; (5) provide, in conjunction with the department of education, ongoing training for child day care providers including preparing videotaped workshops and distributing them to cable stations for broadcast on public access stations, and seek private donations to fund such training; (6) develop for recommendation to the governor and the general assembly measures to provide

1993 ; P.A. 93-381, S. 9, 39 (Effective July 1, 1993)

JANUARY 1993

P.A. 93-381

1449

HALF YEARS COMMENCING JULY 1, 1993; (3) ONE COMMISSIONER BY THE MINORITY LEADER OF THE SENATE, FOR A TERM OF THREE AND ONE-HALF YEARS, COMMENCING JULY 1, 1993, AND (4) ONE COMMISSIONER BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES, FOR A TERM OF TWO AND ONE-HALF YEARS, COMMENCING JULY 1, 1993. AFTER SUCH INITIAL APPOINTMENT THE TERMS OF ALL SUCH COMMISSIONERS SHALL THEREAFTER BE SIX YEARS. SUCH COMMISSIONERS SHALL BE ELECTORS FROM THE METROPOLITAN DISTRICT, PROVIDED NO TWO COMMISSIONERS SHALL BE RESIDENTS OF THE SAME MUNICIPALITY.

Sec. 18. Subsection (e) of special act 77-71 is amended to read as follows:

Notwithstanding any provision of section 8 of number 511 of the special acts of 1929, any vacancy among the members of the district board appointed by member municipalities shall be filled by the legislative body of the municipality from which such member was appointed, [and] any vacancy among the members of said board appointed by the governor shall be filled by the governor AND ANY VACANCY AMONG THE MEMBERS OF SAID BOARD APPOINTED BY A DESIGNATED MEMBER OF THE GENERAL ASSEMBLY SHALL BE FILLED BY SUCH DESIGNATED MEMBER OF THE GENERAL ASSEMBLY. Vacancies shall be filled for the unexpired portion of the term.

Sec. 19. This act shall take effect from its passage.

Approved June 30, 1993

Substitute Senate Bill No. 1047  
**PUBLIC ACT NO. 93-381\***

**AN ACT CONCERNING ESTABLISHMENT OF THE DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES.**

Section 1. (NEW) (a) There is established a department of public health and addiction services. The department head shall be the commissioner of public health and addiction services, who shall be appointed by the governor in accordance with the provisions of sections 4-5 to 4-8, inclusive, of the general statutes, with the powers and duties prescribed therein.

(b) The department of public health and addiction services shall constitute a successor department to the department of health services and the Connecticut alcohol and drug abuse commission for the purposes of the chapters and sections listed in section 10 of this act in accordance with sections 4-38d and 4-39 of the general statutes.

(c) Any order or regulation of the department of health services or the Connecticut alcohol and drug abuse commission which is in force on July 1, 1993, shall continue in force and effect as an order or regulation of the department of public health and addiction services until amended, repealed or superseded pursuant to law. Where any order or regulation of said department and commission conflict, the commissioner of public health and addiction services may implement policies and procedures consistent with the provisions of this act while in the process of adopting the policy or procedure in regulation form, provided notice of intention to adopt the regulations is printed in the Connecticut law journal within twenty days of implementation. The policy or procedure shall be valid until the time final regulations are effective.

\*See also P.A. 93-435, S. 59, 95.

**Sec. 2. (NEW)** The commissioner of public health and addiction services shall employ the most efficient and practical means for the prevention and suppression of disease and shall administer all laws under the jurisdiction of the department of public health and addiction services and the public health code. He shall have responsibility for the overall operation and administration of the department of public health and addiction services. He shall be responsible for the coordination of all activities in the state relating to alcohol and drug abuse problems including activities of other departments and state-wide planning. The commissioner shall have the power and duty to: (1) Administer, coordinate and direct the operation of the department; (2) adopt and enforce regulations, in accordance with chapter 54 of the general statutes, as are necessary to carry out the purposes of the department as established by statute; (3) establish rules for the internal operation and administration of the department; (4) establish and develop programs and administer services to achieve the purposes of the department as established by statute; (5) contract for facilities, services and programs to implement the purposes of the department as established by statute; (6) designate a deputy commissioner or other employee of the department to sign any license, certificate or permit issued by said department; (7) conduct a hearing, issue subpoenas, administer oaths, complete testimony and render a final decision in any case when a hearing is required or authorized under the provisions of any statute dealing with the department of public health and addiction services; (8) with the health authorities of this and other states, secure information and data concerning the prevention and control of epidemics and conditions affecting or endangering the public health, and compile such information and statistics and shall disseminate among health authorities and the people of the state such information as may be of value to them; (9) annually issue a list of reportable diseases and reportable laboratory findings and amend such list as he deems necessary and distribute such list as well as any necessary forms to each licensed physician and clinical laboratory in this state. He shall prepare printed forms for reports and returns, with such instructions as may be necessary, for the use of directors of health, boards of health and registrars of vital statistics; (10) specify uniform methods of keeping statistical information by public and private agencies, organizations, and individuals, including a client identifier system, and collect and make available relevant statistical information, including the number of persons treated, frequency of admission and readmission, and frequency and duration of treatment and require all facilities for the treatment of alcohol or drug dependence licensed under sections 19a-490 to 19a-503, inclusive, to implement such methods. The client identifier system shall be subject to the confidentiality requirements set forth in section 17a-630 and regulations adopted thereunder; (11) make an inspection, at least once each year, of all public hospitals, asylums, prisons, schools and other institutions, within available appropriations. He shall have authority over directors of health and may, for cause, remove any such director; but any person claiming to be aggrieved by such removal may appeal to the superior court which may affirm or reverse the action of the commissioner as the public interest requires. He shall assist and advise local directors of health in the performance of their duties, and may require the enforcement of any law, regulation or ordinance relating to public health. When requested by local directors of health, he shall consult with them and investigate and advise concerning any condition affecting public health within their jurisdiction. He shall investigate nuisances and conditions affecting, or that he has reason to suspect may affect, the security of life and health in any locality and, for that purpose, he, or any person authorized by him so to do, may enter and examine any ground, vehicle, apartment, building or place, and any person designated by him shall have the authority conferred by law upon constables. Whenever he determines that any provision of the general

statutes or regulation of the public health code is not being enforced effectively by a local health department, he shall forthwith take such measures, including the performance of any act required of the local health department, to ensure enforcement of such statute or regulation and shall inform the local health department of such measures. The commissioner may solicit and accept for use any gift of money or property made by will or otherwise, and any grant of or contract for money, services or property from the federal government, the state or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant or contract. The commissioner may establish state-wide and regional advisory councils.

Sec. 3. Section 19a-7 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The department of [health] **PUBLIC HEALTH AND ADDICTION** services shall be the lead agency for public health planning and shall assist communities in the development of collaborative health planning activities which address public health issues on a regional basis or which respond to public health needs having state-wide significance. **THE DEPARTMENT SHALL PREPARE A MULTI-YEAR STATE HEALTH PLAN WHICH WILL PROVIDE AN ASSESSMENT OF THE HEALTH OF CONNECTICUT'S POPULATION AND THE AVAILABILITY OF HEALTH AND ADDICTION SERVICES AND FACILITIES. THE PLAN SHALL INCLUDE: (1) POLICY RECOMMENDATIONS REGARDING ALLOCATION OF RESOURCES; (2) PUBLIC HEALTH AND ADDICTION SERVICES PRIORITIES; (3) QUANTITATIVE GOALS AND OBJECTIVES WITH RESPECT TO THE APPROPRIATE SUPPLY, DISTRIBUTION AND ORGANIZATION OF PUBLIC HEALTH AND ADDICTION RESOURCES; AND (4) EVALUATION OF THE IMPLICATIONS OF NEW TECHNOLOGY FOR THE ORGANIZATION, DELIVERY AND EQUITABLE DISTRIBUTION OF SERVICES. IN THE DEVELOPMENT OF THE PLAN THE DEPARTMENT SHALL CONSIDER THE RECOMMENDATIONS OF ANY ADVISORY BODIES WHICH MAY BE ESTABLISHED BY THE COMMISSIONER.**

(b) **AS PART OF THE PLAN REQUIRED BY SUBSECTION (a) OF THIS SECTION, THE DEPARTMENT SHALL BE RESPONSIBLE FOR DEVELOPING AND IMPLEMENTING THE CONNECTICUT COMPREHENSIVE PLAN FOR PREVENTION, TREATMENT AND REDUCTION OF ALCOHOL AND DRUG ABUSE PROBLEMS TO BE KNOWN AS THE STATE SUBSTANCE ABUSE PLAN. THE PLAN SHALL INCLUDE STATE-WIDE, LONG-TERM PLANNING GOALS AND OBJECTIVES, AND ANNUAL REVISIONS OF OBJECTIVES. IN THE DEVELOPMENT OF THE SUBSTANCE ABUSE PLAN THE DEPARTMENT SHALL SOLICIT AND CONSIDER THE RECOMMENDATIONS OF THE SUBREGIONAL PLANNING AND ACTION COUNCILS ESTABLISHED UNDER SECTION 17a-664, AS AMENDED BY SECTION 26 OF THIS ACT.**

Sec. 4. (NEW) The commissioner of public health and addiction services may appear and participate as an intervenor at any hearing or proceeding conducted by the commission on hospitals and health care or any other state agency concerning certificate of need or rate or budget review of any health care facility or institution for the purpose of determining compliance with the state health plan.

Sec. 5. (NEW) The commissioner of public health and addiction services shall appoint the superintendents of all the institutions and facilities providing alcohol and drug treatment established by or transferred to the department, all of whom shall

be in the unclassified service. The superintendent shall (1) be the administrative head of the treatment facility, (2) be responsible for the organization of their various activities and (3) employ, in accordance with chapter 67 of the general statutes, all members of facility staffs.

Sec. 6. (NEW) (a) The department of public health and addiction services shall allocate by program and geographic location, in a manner consistent with the annual alcohol and drug plan, funds received by the department from the federal government and the state which are designated in the department's budget to be used for grants and contracts for alcohol and drug programs and services. The department shall also administer and supervise all federal and state grant and contract funds for alcohol and drug abuse community services including treatment services, except those services designated to be carried out by state agencies other than the department of mental health.

(b) The department may: (1) Make grants to and contracts and other joint or cooperative agreements with individuals, organizations and state agencies for problems related to alcohol and drug abuse; (2) make grants and contracts from state or federal funds to public or private agencies as may be necessary in the performance of its duties and execution of its powers; (3) require quarterly reports from recipients of grants made or allocated by it and from all departments of the state whose activities are related to alcohol or drug abuse problems for the purpose of evaluating the implementation of the state plans. The department shall report its findings on or before January first of each year to the governor and the general assembly, with its recommendations for such executive and legislative action as it finds beneficial to the public interest.

Sec. 7. (NEW) Any nonprofit organization in Connecticut or any municipal department or unit which offers or proposes to offer education services, prevention services, public information, community intervention, employees' assistance, training or job development services to alcohol-dependent or drug-dependent persons in the state or treatment or rehabilitation services to such persons either as part of comprehensive community-based services on alcohol dependence or drug dependence or as part of a narcotic addiction treatment center in an area of high incidence of drug addiction, may apply to the department of public health and addiction services for state and federal funds to establish, expand or maintain such services. The department may accept requests for funds from any nonprofit organization in Connecticut or any municipal department or unit which offers or proposes to offer the above services, and such services may be funded if they meet the requirements of the department and are in conformance with the state plans concerning alcohol and drug abuse. In the case of treatment or rehabilitation services, the department may accept requests for funds from such organizations, departments or units which offer or propose to offer certain selected services on a demonstration or research basis or which propose services contributing to alcohol and drug dependence services, and such services may be funded in whole or in part if they meet such requirements as the department shall specify by regulation. The application for funds shall be made on forms provided by the department and shall be accompanied by (1) a definition of the area to be served; (2) a plan setting forth the means by which the applicant proposes to coordinate its activities with those of other local agencies presently supplying such services; (3) a description of the services to be provided and the methods through which such services will be provided; and (4) an indication of the methods that will be employed to effect a balance in the use of state and local resources so as to foster local initiative, responsibility and participation. Upon approval of any such application, the department shall grant such funds within available appropriations for any fiscal year. No funds authorized by this section shall be used for the construction or renovation of buildings. The department may



adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, concerning minimum standards for eligibility to receive such state funds.

Sec. 8. (NEW) The department of public health and addiction services shall establish a program to provide alcohol and drug abuse services to deaf and hearing impaired persons. Said program shall provide a system of prevention, intervention, teaching and aftercare services in a manner which is most responsive to the needs of deaf and hearing impaired persons.

Sec. 9. (a) Whenever the words "commissioner of health services" or "executive director of the Connecticut alcohol and drug abuse commission" are used or referred to in the following sections of the general statutes, the words "commissioner of public health and addiction services" shall be substituted in lieu thereof and whenever the words "department of health services", "Connecticut alcohol and drug abuse commission", or "state alcohol and drug abuse commission" are used or referred to in the following sections of the general statutes, the words "department of public health and addiction services" shall be substituted in lieu thereof: 1-21b, 2-20a, 3-129, 4-5, 4-38c, 4-60i, 4-67c, 4a-12, 4a-16, 4a-51, 4a-68, 5-169, 7-22a, 7-41a, 7-42, 7-44, 7-45, 7-47a, 7-48, 7-49, 7-51, 7-52, 7-53, 7-54, 7-55, 7-56, 7-59, 7-60, 7-62a, 7-62b, 7-62c, 7-65, 7-70, 7-72, 7-74, 7-504, 7-505, 7-536, 8-159a, 8-210, 10-19, 10-71, 10-76d, 10-203, 10-204a, 10-207, 10-212, 10-212a, 10-214, 10-215d, 10-253, 10-282, 10-284, 10-292, 10a-132, 10a-132b, 10a-132c, 10a-132d, 10a-155, 10a-162a, 12-62f, 12-634, 13a-175b, 13a-175ee, 13b-38n, 14-227a, 14-227c, 15-121, 15-140r, 15-140u, 16-19z, 16-32e, 16-43, 16-50c, 16-50d, 16-50j, 16-261a, 16-262l, 16-262m, 16-262n, 16-262o, 16-262q, 16a-36, 16a-36a, 16a-103, 17-83k, 17-134f, 17-134v, 17-134w, 17-294, 17-295c, 17-308, 17-314, 17-314a, 17-314g, 17-314n, 17-585, 17-595, 17-600, 17-616, 17a-20, 17a-154, 17a-220, 17a-277, 17a-303, 17a-392, 17a-411, 17a-413, 17a-474, 17a-509, 17a-623, 17a-624, 17a-628, 17a-630, 17a-642, 17a-647, 17a-648, 17a-651, 17a-666, 19a-6, 19a-7b, 19a-7c, 19a-7d, 19a-7e, 19a-7f, 19a-7g, 19a-9, 19a-10, 19a-13, 19a-14, 19a-14a, 19a-14b, 19a-15, 19a-17, 19a-17a, 19a-19, 19a-21, 19a-23, 19a-24, 19a-25, 19a-26, 19a-27, 19a-28, 19a-29, 19a-30, 19a-32, 19a-33, 19a-34, 19a-35, 19a-36, 19a-36a, 19a-37, 19a-37a, 19a-37b, 19a-40, 19a-41, 19a-42, 19a-43, 19a-44, 19a-45, 19a-47, 19a-48, 19a-49, 19a-50, 19a-51, 19a-52, 19a-53, 19a-54, 19a-55, 19a-57, 19a-58, 19a-59, 19a-59b, 19a-59c, 19a-60, 19a-61, 19a-63, 19a-64, 19a-66, 19a-69, 19a-70, 19a-71, 19a-72, 19a-73, 19a-74, 19a-75, 19a-76, 19a-78 to 19a-80, inclusive, 19a-80e, 19a-81 to 19a-91, inclusive, 19a-93, 19a-94, 19a-102, 19a-103, 19a-104, 19a-105, 19a-108, 19a-109, 19a-110, 19a-110a, 19a-111, 19a-111a, 19a-112a, 19a-113, 19a-113a, 19a-114, 19a-115, 19a-116, 19a-121, 19a-121a, 19a-121b, 19a-121c, 19a-121d, 19a-121e, 19a-121f, 19a-122b, 19a-123a, 19a-123b, 19a-124, 19a-145, 19a-148, 19a-150, 19a-153, 19a-154, 19a-155a, 19a-162, 19a-166, 19a-167, 19a-168b, 19a-168k, 19a-168p, 19a-168q, 19a-175, 19a-176, 19a-178, 19a-179, 19a-180, 19a-181a, 19a-182, 19a-183, 19a-184, 19a-186, 19a-187, 19a-195a, 19a-200, 19a-201, 19a-202, 19a-204, 19a-207, 19a-208, 19a-215, 19a-219, 19a-221, 19a-223, 19a-229, 19a-241, 19a-242, 19a-243, 19a-244, 19a-245, 19a-250, 19a-253, 19a-255, 19a-257, 19a-262, 19a-269, 19a-270, 19a-270a, 19a-279l, 19a-310, 19a-311, 19a-312, 19a-313, 19a-320, 19a-323, 19a-329, 19a-330, 19a-331, 19a-332, 19a-332a, 19a-333, 19a-341, 19a-401, 19a-402, 19a-406, 19a-409, 19a-420, 19a-421, 19a-422, 19a-423, 19a-424, 19a-425, 19a-426, 19a-427, 19a-428, 19a-490, 19a-490c, 19a-491, 19a-491a, 19a-491b, 19a-492, 19a-493, 19a-493a, 19a-494, 19a-494a, 19a-496, 19a-497, 19a-499, 19a-500, 19a-501, 19a-503, 19a-504, 19a-504c, 19a-505, 19a-506, 19a-507a, 19a-507b, 19a-507c, 19a-507d, 19a-508, 19a-509a,

19a-512, 19a-514, 19a-515, 19a-517, 19a-518, 19a-519, 19a-520, 19a-521, 19a-521a, 19a-523, 19a-524, 19a-526, 19a-527, 19a-528, 19a-530, 19a-531, 19a-533, 19a-534a, 19a-535, 19a-535a, 19a-536, 19a-537, 19a-538, 19a-540, 19a-542, 19a-547, 19a-550, 19a-551, 19a-581, 19a-582, 19a-584, 19a-586, 20-8, 20-8a, 20-9, 20-10, 20-11, 20-11a, 20-12, 20-12a, 20-13, 20-13a, 20-13b, 20-13d, 20-13e, 20-14, 20-14j, 20-17, 20-18, 20-18a, 20-20, 20-27, 20-29, 20-37, 20-40, 20-45, 20-54, 20-55, 20-57, 20-59, 20-66, 20-68, 20-70, 20-71, 20-73, 20-73a, 20-74, 20-74a, 20-74i, 20-74o, 20-74p, 20-74q, 20-74r, 20-86b, 20-86c, 20-86d, 20-86f, 20-86h, 20-90, 20-92, 20-93, 20-94, 20-94a, 20-96, 20-97, 20-99, 20-99a, 20-101a, 20-103a, 20-106, 20-107, 20-108, 20-109, 20-110, 20-111, 20-111b, 20-111c, 20-214, 20-122a, 20-122b, 20-122c, 20-123a, 20-127, 20-128a, 20-129, 20-130, 20-133, 20-138a, 20-138c, 20-139a, 20-140a, 20-141, 20-143, 20-146, 20-146a, 20-149, 20-153, 20-154, 20-162n, 20-162p, 20-183, 20-188, 20-189, 20-190, 20-192, 20-193, 20-195a, 20-195m, 20-195p, 20-196, 20-198, 20-199, 20-200, 20-202, 20-206, 20-206a, 20-207, 20-211, 20-212, 20-213, 20-214, 20-217, 20-218, 20-220, 20-221, 20-222, 20-222a, 20-223, 20-224, 20-226, 20-227, 20-228, 20-229, 20-231, 20-235a, 20-236, 20-238, 20-241, 20-242, 20-243, 20-247, 20-250, 20-252, 20-252a, 20-255a, 20-256, 20-258, 20-262, 20-263, 20-267, 20-268, 20-269, 20-271, 20-272, 20-341d, 20-341e, 20-341f, 20-341g, 20-341m, 20-358, 20-361, 20-365, 20-396, 20-402, 20-404, 20-406, 20-408, 20-412a, 20-412b, 20-416, 21-7, 21a-11, 21a-86a, 21a-86c, 21a-116, 21a-138, 21a-150, 21a-150a, 21a-150b, 21a-150c, 21a-150d, 21a-150f, 21a-150j, 21a-240, 21a-249, 21a-260, 21a-274, 21a-274a, 21a-283, 21a-301, 21a-305, 21a-306, 22-6f, 22-131, 22-150, 22-152, 22-165, 22-332b, 22-344, 22-358, 22-417, 22a-29, 22a-54, 22a-65, 22a-66a, 22a-661, 22a-66z, 22a-115, 22a-119, 22a-134g, 22a-134bb, 22a-137, 22a-163a, 22a-163i, 22a-176, 22a-191, 22a-192, 22a-208q, 22a-231, 22a-240, 22a-295, 22a-300, 22a-308, 22a-337, 22a-352, 22a-354i, 22a-354k, 22a-354w, 22a-354x, 22a-354aa, 22a-355, 22a-356, 22a-358, 22a-361, 22a-363b, 22a-371, 22a-378, 22a-423, 22a-424, 22a-426, 22a-430, 22a-434a, 22a-449i, 22a-471, 22a-474, 22a-601, 25-32, 25-32b, 25-32c, 25-32d, 25-32e, 25-32f, 25-32g, 25-32h, 25-32i, 25-33, 25-33a, 25-33c, 25-33d, 25-33e, 25-33f, 25-33g, 25-33h, 25-33i, 25-33j, 25-33k, 25-33l, 25-33n, 25-34, 25-35, 25-36, 25-37a, 25-37b, 25-37c, 25-37d, 25-37e, 25-37f, 25-37g, 25-39a, 25-39b, 25-39c, 25-40, 25-43b, 25-43c, 25-46, 25-49, 25-102gg, 25-128, 25-129, 25-137, 26-22, 26-119, 26-141b, 26-192a, 26-192b, 26-192c, 26-192e, 26-236, 27-140aa, 31-23, 31-51p, 31-51u, 31-101, 31-106, 31-111a, 31-111b, 31-121a, 31-222, 31-374, 31-397, 31-398, 31-400, 31-401, 31-402, 31-403, 32-23x, 38a-180, 38a-199, 38a-314, 38a-514, 38a-539, 38a-583, 45a-743, 45a-745, 45a-749, 45a-750, 45a-757, 46a-28, 46a-126, 46b-26, 46b-68, 46b-172a, 47a-52, 52-146f, 52-146k, 52-557b, 53-332, 53a-90, 54-36i, 54-56g, 54-142k, 54-203.

(b) If the term "department of health services", "Connecticut alcohol and drug abuse commission", or "state alcohol and drug abuse commission" is used or referred to in any public or special act of 1993 or 1994, or in any section of the general statutes which is amended in 1993 or 1994, it shall be deemed to mean or refer to the department of public health and addiction services.

(c) If the term "commissioner of health services" or "executive director of the Connecticut alcohol and drug abuse commission" is used or referred to in any public or special act of 1993 or 1994, or in any section of the general statutes which is amended in 1993 or 1994, it shall be deemed to mean or refer to the commissioner of public health and addiction services.

Sec. 10. Section 3 of special act 92-20 is amended to read as follows:

1995 P.A. 95-257, S. 12, 21, 58 (Effective July 1, 1995)

**1086****P.A. 95-257****PUBLIC ACTS**

DOLLARS, (C) TWELVE PER CENT ON THE AMOUNT IN EXCESS OF FOUR HUNDRED THOUSAND DOLLARS IN VALUE TO AND INCLUDING SIX HUNDRED THOUSAND DOLLARS, (D) THIRTEEN PER CENT ON THE AMOUNT IN EXCESS OF SIX HUNDRED THOUSAND DOLLARS IN VALUE TO AND INCLUDING ONE MILLION DOLLARS AND (E) FOURTEEN PER CENT ON THE AMOUNT IN EXCESS OF ONE MILLION DOLLARS IN VALUE, (2) IF THE DEATH OF THE TRANSFEROR OCCURS ON OR AFTER JANUARY 1, 2002, BUT PRIOR TO JANUARY 1, 2003, AT THE RATE OF (A) TWELVE PER CENT ON THE AMOUNT IN EXCESS OF FOUR HUNDRED THOUSAND DOLLARS IN VALUE TO AND INCLUDING SIX HUNDRED THOUSAND DOLLARS, (B) THIRTEEN PER CENT ON THE AMOUNT IN EXCESS OF SIX HUNDRED THOUSAND DOLLARS IN VALUE TO AND INCLUDING ONE MILLION DOLLARS AND (C) FOURTEEN PER CENT ON THE AMOUNT IN EXCESS OF ONE MILLION DOLLARS IN VALUE, (3) IF THE DEATH OF THE TRANSFEROR OCCURS ON OR AFTER JANUARY 1, 2003, BUT PRIOR TO JANUARY 1, 2004, AT THE RATE OF (A) THIRTEEN PER CENT ON THE AMOUNT IN EXCESS OF SIX HUNDRED THOUSAND DOLLARS IN VALUE TO AND INCLUDING ONE MILLION DOLLARS AND (B) FOURTEEN PER CENT ON THE AMOUNT IN EXCESS OF ONE MILLION DOLLARS IN VALUE, (4) IF THE DEATH OF THE TRANSFEROR OCCURS ON OR AFTER JANUARY 1, 2004, BUT PRIOR TO JANUARY 1, 2005, AT THE RATE OF FOURTEEN PER CENT ON THE AMOUNT IN EXCESS OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS IN VALUE AND (5) IF THE DEATH OF THE TRANSFEROR OCCURS ON OR AFTER JANUARY 1, 2005, THE NET TAXABLE ESTATE PASSING TO A CLASS C BENEFICIARY SHALL NOT BE SUBJECT TO TAX UNDER THIS CHAPTER.

Sec. 2. (NEW) (a) The probate court administrator, in consultation with the commissioner of revenue services, shall develop a method for the determination of a gross estate for purposes of the computation of cost for settlement of estates, pursuant to section 45a-107 of the general statutes, for estates of decedents whose death occurs on or after January 1, 2005, and shall prepare a form to be used by the court for such purpose.

(b) The administrator shall report to the joint standing committees of the general assembly having cognizance of matters relating to finance, revenue and bonding and the judiciary, on or before January 1, 2004. Said report shall include, but is not limited to, the form which has been developed and a recommendation regarding any legislative changes necessary to implement the suggested method for determination of gross estate.

Senate Bill No. 1164

**PUBLIC ACT NO. 95-257**

**AN ACT CONCERNING THE CONSOLIDATION OF STATE-OPERATED PROGRAMS AT FAIRFIELD HILLS, NORWICH AND CONNECTICUT VALLEY HOSPITALS, TRANSFER OF ADDICTION SERVICES TO THE FORMER DEPARTMENT OF MENTAL HEALTH, MEDICAID WAIVER, AND THE OFFICE OF HEALTH CARE ACCESS.**

Section 1. (NEW) The commissioner of mental health and addiction services shall develop a plan for the closure of the state-operated programs at Fairfield Hills

Hospital and at Norwich Hospital and the consolidation of the programs at Connecticut Valley Hospital. The plan shall accommodate the present on-site operation of the private providers currently providing substance abuse services on the Fairfield Hills and Norwich Hospital campuses and shall assist in the coordination of finding locations, within the area, for such services. The plan shall make provisions for the availability of state-operated in-patient services for persons with substance abuse disabilities in the geographic areas formerly served by the Fairfield Hills Hospital and the Norwich Hospital. The commissioner shall submit monthly reports on the development and implementation of the plan developed under subsection (a) of this section to the committees of the general assembly having cognizance of matters relating to public health and appropriations.

Sec. 2. (NEW) (a) There is established an implementation oversight committee to oversee the future use of the Fairfield Hills campus and facilities. The committee shall be within the office of policy and management for administrative purposes only. The committee shall be composed of the following: A representative of the office of policy and management, who shall be appointed by the governor; a representative of the department of mental health and addiction services, who shall be appointed by the president pro tempore of the senate; a representative of the department of agriculture, who shall be appointed by the majority leader of the senate; a representative of the department of economic development, who shall be appointed by the minority leader of the senate; a representative from the town of Newtown who shall be appointed by the speaker of the house of representatives; a member of the regional planning agency for the Housatonic Valley, who shall be appointed by the majority leader of the house of representatives; and a state representative representing the affected area, who shall be appointed by the minority leader of the house of representatives.

(b) The committee shall (1) oversee the use of the campus in an expeditious and efficient manner, (2) consult with the office of policy and management to ensure that future uses of the properties meet the social, economic, and environmental needs and concerns of the surrounding communities, the region as a whole, and the economic needs of the state and (3) provide a forum for addressing the issues, needs and concerns of the users of the facilities located on the campus.

\*Sec. 3. (NEW) (a) There is established an implementation oversight committee to oversee the future use of the Norwich Hospital campus and facilities. The committee shall be within the office of policy and management for administrative purposes only. The committee shall be composed of the following: A representative of the office of policy and management, who shall be appointed by the governor; a representative of the department of mental health and addiction services, who shall be appointed by the president pro tempore of the senate; a representative of the department of agriculture, who shall be appointed by the majority leader of the senate; a representative of the department of economic development, who shall be appointed by the minority leader of the senate; a representative from the town of Norwich, who shall be appointed by the speaker of the house of representatives; a member of the regional council of governments, who shall be appointed by the majority leader of the house of representatives; and a state representative representing the affected area, who shall be appointed by the minority leader of the house of representatives.

(b) The committee shall (1) oversee the use of the campus in an expeditious and efficient manner, (2) consult with the office of policy and management to ensure

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\*See also P.A. 95-318, S. 36, 43.

that future uses of the properties meet the social, economic, and environmental needs and concerns of the surrounding communities, the region as a whole, and the economic needs of the state and (3) provide a forum for addressing the issues, needs and concerns of the users of the facilities located on the campus.

**Sec. 4. (NEW)** (a) The commissioner of mental health and addiction services, in consultation and coordination with the advisory council established under subsection (b) of this section, shall develop policies and set standards related to clients residing on the Connecticut Valley Hospital campus and to the placement of clients discharged from the hospital into the adjacent community. Any such policies and standards shall assure that no discharge of any client admitted to Whiting Forensic Division under commitment by the superior court or transfer from the department of correction shall take place without full compliance with sections 17a-511 to 17a-524, inclusive, 17a-566 to 17a-575, inclusive, 17a-580 to 17a-603, inclusive, and 54-56d of the general statutes.

(b) There is established a Connecticut Valley Hospital advisory council to advise the commissioner of mental health and addiction services on policies concerning, but not limited to, building use, security, clients residing on the campus and the placement of clients discharged from the campuses into the adjacent community. The advisory council shall periodically review the implementation of the policies and standards established by the commissioner in consultation with the advisory council. The council shall be composed of six members appointed by the mayor of Middletown, six members appointed by the commissioner of mental health and addiction services and one member who shall serve as chairperson appointed by the governor.

**Sec. 5. (NEW)** (a) The department of mental health and addiction services shall constitute a successor department to the addiction services component of the department of public health and addiction services. Whenever the words "commissioner of public health and addiction services" are used or referred to in the following general statutes, the words "commissioner of mental health and addiction services" shall be substituted in lieu thereof and whenever the words "department of public health and addiction services" are used or referred to in the following general statutes, the words "department of mental health and addiction services" shall be substituted in lieu thereof: 4a-12, 17a-3, 19a-2d, 19a-2e, 19a-2f, 19a-2g, 19a-4a, 19a-4b, 19a-4c, 19a-4d, 19a-4e, 19a-4f, 19a-4h, 19a-5b, 19a-5c, 19a-89c, 19a-126, 19a-126a, 19a-126b, 19a-126d, 19a-126e, 19a-126f, 19a-126g, 19a-127, 19a-127c, 20-74o, 20-74p, 20-74q, 20-74r, 21a-274a, 54-36i and 54-56g.

(b) Any order or regulation of the department of mental health or the addiction services component of the department of public health and addiction services that is in force on July 1, 1995, shall continue in force and effect as an order or regulation of the department of mental health and addiction services until amended, repealed or superseded pursuant to law. Where any order or regulation of the departments conflict, the commissioner of mental health and addiction services may implement policies and procedures consistent with the provisions of this act while in the process of adopting the policy or procedure in regulation form, provided notice of intention to adopt the regulations is printed in the Connecticut Law Journal within twenty days of implementation. The policy or procedure shall be valid until the time final regulations are effective.

**Sec. 6. (NEW) (a) As used in this section:**

(1) "Consolidation program" means the process of consolidating inpatient mental health and substance abuse services throughout the state at the Connecticut Valley Hospital in Middletown; and

(2) "Priority state hospital facility project" or "project" means each step, part or aspect of the consolidation program. "Project" includes, but is not limited to, repairing, renovating, enlarging or equipping existing buildings, or constructing new buildings, on the grounds of the Connecticut Valley Hospital.

(b) Notwithstanding the provisions of the general statutes or any special act, the consolidation program, each project, each closure and each contract entered into in connection with a project shall be exempt from the provisions of sections 4b-58 and 4b-91 of the general statutes and from the requirements for approval of a request or application provided for in subsections (a) to (d), inclusive, of section 19a-154 and in subsection (a) of section 19a-155 of the general statutes, provided (1) the project begins no later than June 30, 1998; (2) the project is completed no later than June 30, 2000; (3) the cost of the project does not exceed twenty million dollars; and (4) the commissioner of mental health and addiction services certifies in writing to the secretary of the office of policy and management that the project meets the criteria of this act and upon such certification the secretary of the office of policy and management shall authorize the commissioner of public works to implement such project.

**Sec. 7. (NEW) (a)** There is established a waiver application development council that shall be composed of the following members: The chairpersons and ranking members of the committee having cognizance of matters relating to appropriations, or their designees; and six members of the general assembly, one member appointed by the president pro tempore of the senate; one member appointed by the majority leader of the senate; one member appointed by the minority leader of the senate; one member appointed by the speaker of the house of representatives; one member appointed by the majority leader of the house of representatives; and one member appointed by the minority leader of the house of representatives. The council shall be responsible for advising the department of social services, which shall be the lead agency in the development of a Medicaid Research and Demonstration Waiver under Section 1115 of the Social Security Act for application to the Office of State Health Reform of the United States Department of Health and Human Services by May 1, 1996. The council shall advise the department with respect to specific provisions within the waiver application, including but not limited to, the identification of populations to be included in a managed care program, a timetable for inclusion of distinct populations, expansion of access to care, quality assurance and grievance procedures for consumers and providers. The council shall also advise the department with respect to the goals of the waiver, including but not limited to the expansion of access and coverage, making state health spending more efficient and to the reduction of uncompensated care.

(b) There is established a Medicaid Waiver Unit within the department of social services for the purposes of developing the waiver under subsection (a). The Medicaid Waiver Unit's responsibilities shall include but not be limited to the following: (1) Administering the Medicaid Managed Care Program, established pursuant to

section 17b-28 of the general statutes, as amended by section 56 of this act; (2) contracting with and evaluating prepaid health plans providing Medicaid services, including negotiation and establishment of capitated rates; (3) assessing quality assurance information compiled by the federally required independent quality assurance contractor; (4) monitoring contractual compliance; (5) evaluating enrolment broker performance; (6) providing Medicaid data to the health care data institute, established pursuant to section 19a-616 of the general statutes, for the purpose of establishing a Medicaid database; (7) providing assistance to the department of insurance for the regulation of Medicaid managed care health plans; and (8) developing a system to compare performance levels among prepaid health plans providing Medicaid services.

Sec. 8. Funds appropriated to the office of policy and management in section 1 and section 11 of substitute house bill 6696\* of the current session, for the fiscal year ending June 30, 1996, and the fiscal year ending June 30, 1997, for the private provider account, shall be distributed by the secretary of the office of policy and management to the departments of mental health and addiction services, mental retardation, social services, and children and families and shall be used for payments, within available appropriations, to private providers for costs related to (1) collective bargaining agreements with unionized employees and (2) increases in personnel costs for non-unionized employees. The use of funds distributed pursuant to this section to the department of social services shall be limited to intermediate care facilities for the mentally retarded.

Sec. 9. Subsection (a) of section 12-19a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) On or before January first, annually, the secretary of the office of policy and management shall determine the amount due, as a state grant in lieu of taxes, to each town in this state wherein state-owned real property or reservation land held in trust by the state for an Indian tribe, except that which was acquired and used for highways and bridges, but not excepting property acquired and used for highway administration or maintenance purposes, is located. The grant payable to any town under the provisions of this section in the state fiscal year commencing July 1, 1993, and each fiscal year thereafter, shall be equal to the total of (1) one hundred per cent of the property taxes which would have been paid with respect to any facility listed in subsection (w) of section 1-1 and any other facility certified by the commissioner of corrections, on or before August first of each year, to have been used for incarcerative purposes during the preceding fiscal year, (2) FORTY PER CENT OF THE PROPERTY TAXES WHICH WOULD HAVE BEEN PAID WITH RESPECT TO THE BUILDINGS AND GROUNDS COMPRISING CONNECTICUT VALLEY HOSPITAL IN MIDDLETOWN. SUCH GRANT SHALL COMMENCE WITH THE FISCAL YEAR BEGINNING JULY 1, 1995, AND CONTINUING EACH YEAR THEREAFTER and, [(2)] (3) twenty per cent of the property taxes which would have been paid with respect to all other state-owned real property, except for the exemption applicable to such property, on the assessment list in such town for the assessment date two years prior to the commencement of the state fiscal year in which such grant is payable. For the fiscal year ending June 30, 1993, the amount of the grant payable to each municipality in accordance with this section shall be reduced proportionately in the event that the total of such grants in such year exceeds the amount appropriated for the purposes of this section with respect to such year.

\*See S.A. 95-12, in Part 2.

Sec. 10. Section 17a-450 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) There shall be a department of mental health AND ADDICTION SERVICES headed by a commissioner of mental health AND ADDICTION SERVICES, appointed by the governor with the advice of the Board of Mental Health AND ADDICTION SERVICES ESTABLISHED PURSUANT TO SECTION 17a-456, AS AMENDED BY SECTION 13 OF THIS ACT.

(b) For the purposes of chapter 50, the department of mental health AND ADDICTION SERVICES shall be a single budgeted agency. [It shall consist of, but not be limited to, those divisions and facilities which] IT SHALL CONSIST OF TWO DIVISIONS, THE DIVISION OF MENTAL HEALTH SERVICES AND THE DIVISION OF SUBSTANCE ABUSE SERVICES, THAT SHALL BE ORGANIZED TO PROMOTE COMPREHENSIVE, CLIENT-BASED SERVICES IN THE AREAS OF MENTAL HEALTH TREATMENT AND SUBSTANCE ABUSE TREATMENT AND TO ENSURE THE PROGRAMMATIC INTEGRITY AND CLINICAL IDENTITY OF SERVICES IN EACH AREA. THE DEPARTMENT SHALL perform the functions of: Centralized administration, planning and program development; prevention and treatment programs and facilities, both inpatient and outpatient, for [mentally disordered adults] PERSONS WITH PSYCHIATRIC DISABILITIES OR PERSONS WITH SUBSTANCE ABUSE DISABILITIES, OR BOTH; community mental health centers and community or regional programs and facilities providing services for [mentally disordered adults] PERSONS WITH PSYCHIATRIC DISABILITIES OR PERSONS WITH SUBSTANCE ABUSE DISABILITIES, OR BOTH; training and education; and research and evaluation of programs and facilities providing services for [mentally disordered adults] PERSONS WITH PSYCHIATRIC DISABILITIES OR PERSONS WITH SUBSTANCE ABUSE DISABILITIES, OR BOTH. The department shall include, but not be limited to, the following divisions and facilities: The office of the commissioner of mental health AND ADDICTION SERVICES; Capitol Region Mental Health Center; Connecticut Valley Hospital; Norwich Hospital; Fairfield Hills Hospital; the Connecticut Mental Health Center; the Whiting Forensic [Institute] DIVISION; Ribicoff Research Center; Cedarcrest Regional Hospital; the Franklin S. DuBois Center; the Greater Bridgeport Community Mental Health Center; BLUE HILLS HOSPITAL; BERKSHIRE WOODS TREATMENT CENTER; EUGENE BONESKI TREATMENT CENTER; DUTCHER TREATMENT CENTER; and any other state-operated facility for the treatment of [the mentally disordered] PERSONS WITH PSYCHIATRIC DISABILITIES OR PERSONS ADULTS OR ADULTS WITH SUBSTANCE ABUSE DISABILITIES, OR BOTH, but shall not include those portions of such facilities transferred to the department of children and families for the purpose of consolidation of children's services. [or those portions of such facilities transferred to the department of public health and addiction services for purposes of transferring responsibility for alcohol and drug abuse treatment programs.]

(c) The department of mental health AND ADDICTION SERVICES may:

(1) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services or property from the federal government, the state or any political subdivision thereof or any private source, and do all things



necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(2) Keep records and engage in research and the gathering of relevant statistics;

(3) Work with public or private agencies, organizations, facilities or individuals to ensure the operation of the programs set forth in accordance with sections 17a-75 to 17a-83, inclusive, 17a-450 to 17a-484, inclusive, 17a-495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-576, inclusive, 17a-580 to 17a-603, inclusive, and 17a-615 to 17a-618, inclusive;

(4) Hold hearings, issue subpoenas, administer oaths, compel testimony and order production of books, papers and records in the performance of its duties; and

(5) Perform such other acts and functions as may be necessary or convenient to execute the authority expressly granted to it.

Sec. 11. (NEW) The department of mental health and addiction services shall constitute a successor department to the department of mental health. Whenever the words "commissioner of mental health" are used or referred to in the following general statutes, the words "commissioner of mental health and addiction services" shall be substituted in lieu thereof and whenever the words "department of mental health" are used or referred to in the following general statutes, the words "department of mental health and addiction services" shall be substituted in lieu thereof: 2c-2b, 4-5, 4-38c, 4-60i, 4-77a, 4a-12, 4a-16, 5-142, 8-206d, 10-19, 10-71, 10-76d, 13b-38n, 17a-14, 17a-26, 17a-31, 17a-33, 17a-218, 17a-246, 17a-450, 17a-451, 17a-452, 17a-453, 17a-454, 17a-455, 17a-456, 17a-457, 17a-458, 17a-459, 17a-460, 17a-463, 17a-464, 17a-465, 17a-466, 17a-467, 17a-468, 17a-470, 17a-471, 17a-472, 17a-473, 17a-474, 17a-476, 17a-478, 17a-479, 17a-480, 17a-481, 17a-482, 17a-483, 17a-484, 17a-498, 17a-499, 17a-502, 17a-506, 17a-510, 17a-511, 17a-512, 17a-513, 17a-519, 17a-528, 17a-560, 17a-561, 17a-562, 17a-565, 17a-576, 17a-581, 17a-582, 17b-28, 17b-222, 17b-223, 17b-225, 17b-359, 17b-420, 17b-694, 19a-4b, 19a-82, 19a-495, 19a-498, 19a-507a, 19a-507c, 19a-576, 19a-583, 20-14i, 20-14j, 21a-240, 21a-301, 22a-224, 27-122a, 31-222, 38a-514, 38a-539, 46a-28, 51-51o, 52-146h and 54-56d.

Sec. 12. Section 19a-1a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) There is established a department of public health. [and addiction services.] The department head shall be the commissioner of public health, [and addiction services,] who shall be appointed by the governor in accordance with the provisions of sections 4-5 to 4-8, inclusive, with the powers and duties prescribed therein.

(b) The department of public health [and addiction services] shall constitute a successor department to the department of PUBLIC health AND ADDICTION services [and the Connecticut Alcohol and Drug Abuse Commission] for the purposes of the chapters and sections listed in section 19a-1c, AS AMENDED BY SECTION 21 OF THIS ACT, in accordance with sections 4-38d and 4-39.

(c) Any order or regulation of the department of [health services or the Connecticut Alcohol and Drug Abuse Commission] PUBLIC HEALTH AND ADDICTION SERVICES which is in force on July 1, [1993] 1995, shall continue in force and effect as an order or regulation of the department of public health [and addiction services] until amended, repealed or superseded pursuant to law. Where any order or regulation of said [department and commission] DEPARTMENTS conflict, the commissioner of public health [and addiction services] may implement policies and procedures consistent with the provisions of [public act 93-381\*] THIS ACT while in the process of adopting the policy or procedure in regulation form, provided notice of intention to adopt the regulations is printed in the Connecticut Law Journal within twenty days of implementation. The policy or procedure shall be valid until the time final regulations are effective.

Sec. 13. Section 17a-456 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) There shall [continue to be a department of mental health and] BE a Board of Mental Health AND ADDICTION SERVICES THAT [which board] shall consist of (1) [ten] FIFTEEN members appointed by the governor, subject to the provisions of section 4-9a, FIVE OF WHOM SHALL HAVE HAD EXPERIENCE IN THE FIELD OF SUBSTANCE ABUSE AND FIVE OF WHOM SHALL BE FROM THE MENTAL HEALTH COMMUNITY, three of whom shall be physicians licensed to practice medicine in this state who have had experience in the field of psychiatry and two of whom shall be psychologists licensed to practice in this state, (2) the chairmen of the regional mental health boards established pursuant to section 17a-484, [and] (3) one designee of each such board AND (4) ONE DESIGNEE FROM EACH SUBSTANCE ABUSE SUBREGIONAL PLANNING AND ACTION COUNCIL ESTABLISHED PURSUANT TO SECTION 19a-2e. The members of the board shall serve without compensation except for necessary expenses incurred in performing their duties. The members of the board shall include representatives of nongovernment organizations or groups, and of state agencies, concerned with planning, operation or utilization of facilities providing mental health AND SUBSTANCE ABUSE services, including consumers and providers of such services who are familiar with the need for such services, except that no more than half of the members of the board shall be providers of such services. Members shall serve on the board for terms of four years each. None of the appointive members of the board shall be employed by the state or be a member of the staff of any institution wherein his compensation is paid wholly by the state. No member may serve more than two successive terms plus the balance of any unexpired term to which he has been appointed. A majority of the board shall constitute a quorum.

(b) WHENEVER THE TERM "BOARD OF MENTAL HEALTH" IS USED OR REFERRED TO IN THE FOLLOWING SECTIONS OF THE GENERAL STATUTES, THE TERM "BOARD OF MENTAL HEALTH AND ADDICTION SERVICES" SHALL BE SUBSTITUTED IN LIEU THEREOF: 2c-2b, 17a-457, 17a-460, 17a-467, 17a-473, 17a-564.

Sec. 14. Section 17a-451 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The commissioner of mental health AND ADDICTION SERVICES shall be a qualified person with A MASTERS DEGREE OR HIGHER IN A HEALTH

1995 section 21 included (mentioned and appealed in 1996 P.A. 96-244, S. 16)

**JANUARY 1995**

**P.A. 95-257**

**1099**

tally ill and] HAVE PSYCHIATRIC DISABILITIES AND BE dangerous to themselves or others and to require custody, care and treatment at the [institute] DIVISION and (3) inmates in the custody of the commissioner of correction who are transferred in accordance with sections 17a-512 to 17a-517, inclusive, and who require custody, care and treatment at the institute.

Sec. 19. Section 17a-562 of the general statutes is repealed and the following is substituted in lieu thereof:

[Said institute] THE WHITING FORENSIC DIVISION OF THE CONNECTICUT VALLEY HOSPITAL shall be within the general administrative control and supervision of the department of mental health AND ADDICTION SERVICES. The director, with the approval of the commissioner and the board, shall establish such [divisions and] subdivisions, which may be located geographically separate from the [institute] DIVISION, as may be deemed proper for the administrative control and the efficient operation thereof, one of which [divisions] SUBDIVISIONS shall be the diagnostic unit.

Sec. 20. (NEW) (a) On and after July 1, 1995, wherever the words "Whiting Forensic Institute" are used or referred to in the following general statutes, the words "Whiting Forensic Division" shall be substituted in lieu thereof and wherever the word "institute" is used or referred to in the following general statutes, the word "division" shall be substituted in lieu thereof: 5-145a, 5-173, 5-192f, 17a-517, 17a-521, 17a-548 and 17a-560 to 17a-576, inclusive.

(b) If the term "Whiting Forensic Institute" is used or referred to in any public or special act of 1995 or 1996 or in any section of the general statutes which is amended in 1995 or 1996 it shall be deemed to mean or refer to the Whiting Forensic Division of the Connecticut Valley Hospital.

Sec. 21. Section 19a-1c of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Whenever the words "commissioner of PUBLIC health AND ADDICTION services" [or "executive director of the Connecticut Alcohol and Drug Abuse Commission"] are used or referred to in the following sections of the general statutes, the words ["commissioner of public health and addiction services"] "COMMISSIONER OF PUBLIC HEALTH" shall be substituted in lieu thereof and whenever the words "department of PUBLIC health AND ADDICTION services" [, "Connecticut Alcohol and Drug Abuse Commission", or "State Alcohol and Drug Abuse Commission"] are used or referred to in the following sections of the general statutes, the words ["department of public health and addiction services"] "DEPARTMENT OF PUBLIC HEALTH" shall be substituted in lieu thereof: 1-21b, 2-20a, 3-129, 4-5, 4-38c, 4-60i, 4-67e, 4a-12, 4a-16, 4a-51, 4a-68, 5-169, 7-22a, 7-41a, 7-42, 7-44, 7-45, 7-47a, 7-48, 7-49, 7-51, 7-52, 7-53, 7-54, 7-55, 7-56, 7-59, 7-60, 7-62a, 7-62b, 7-62c, 7-65, 7-70, 7-72, 7-73, 7-74, 7-127e, 7-504, [7-505,] 7-536, 8-159a, 8-206d, 8-210, 10-19, 10-71, 10-76d, 10-91a, 10-203, 10-204a, 10-207, 10-212, 10-212a, 10-214, 10-215d, 10-253, 10-282, 10-284, 10-292, 10a-132, 10a-132b, 10a-132c, 10a-132d, 10a-155, 10a-162a, 12-62f, 12-263a, 12-407, 12-634, 13a-175b, 13a-175ec, 13b-38n, 14-227a, 14-227c, 15-121, 15-140r, 15-140u, 16-19z, 16-32e, 16-43, 16-50c, 16-50d, 16-50j, 16-261a, 16-262l, 16-262m, 16-262n, 16-262o,

16-262q, 16a-36, 16a-36a, 16a-103, [17-83k, 17-134f, 17-134v, 17-134w, 17-294, 17-295c, 17-308, 17-314, 17-314a, 17-314g, 17-314n,] 17-585, [17-595, 17-600, 17-616,] 17a-20, 17a-52, 17a-154, 17a-219c, 17a-220, 17a-277, [17a-303, 17a-392, 17a-411, 17a-413, 17a-474,] 17a-509, [17a-623, 17a-624, 17a-628, 17a-630, 17a-642, 17a-647, 17a-648, 17a-651, 17a-666, 19a-6,] 17b-6, 17b-99, 17a-225, 17b-234, 17b-265, 17b-288, 17b-340, 17b-341, 17b-347, 17b-350, 17b-351, 17b-354, 17b-357, 17b-358, 17b-406, 17b-408, 17b-420, 17b-552, 17b-611, 17b-733, 17b-737, 17b-740, 17b-748, 17b-803, 17b-808, 17b-851a, 19a-1d, 19a-4b, 19a-4i, 19a-6, 19a-6a, 19a-7d, 19a-7c, 19a-7d, 19a-7e, 19a-7f, 19a-7g, 19a-7h, 19a-9, 19a-10, 19a-13, 19a-14, 19a-14a, 19a-14b, 19a-15, 19a-17, 19a-17a, 19a-17m, 19a-17n, 19a-19, 19a-20, 19a-21, 19a-23, 19a-24, 19a-25, 19a-25a, 19a-26, 19a-27, 19a-28, 19a-29, 19a-29a, 19a-30, 19a-30a, 19a-32, 19a-33, 19a-32a, 19a-34, 19a-35, 19a-36, 19a-36a, 19a-37, 19a-37a, 19a-37b, 19a-40, 19a-41, 19a-42, 19a-43, 19a-44, 19a-45, 19a-47, 19a-48, 19a-49, 19a-50, 19a-51, 19a-52, 19a-53, 19a-54, 19a-55, 19a-57, 19a-58, 19a-59, 19a-59a, 19a-59b, 19a-59c, 19a-59d, 19a-60, 19a-61, [19a-63, 19a-64, 19a-66,] 19a-69, 19a-70, 19a-71, 19a-72, 19a-73, 19a-74, 19a-75, 19a-76, [19a-78 to] 19a-79, 19a-80, [inclusive, 19a-80e,] 19a-81 to 19a-91, inclusive, 19a-92a, 19a-93, 19a-94, 19a-94a, 19a-102a, 19a-103, 19a-104, 19a-105, 19a-108, 19a-109, 19a-110, 19a-110a, 19a-111, 19a-111a, 19a-111e, 19a-112a, 19a-112b, 19a-112c, 19a-113, 19a-113a, 19a-114, 19a-115, 19a-116, 19a-121, 19a-121a, 19a-121b, 19a-121c, 19a-121d, 19a-121e, 19a-121f, 19a-122b, 19a-123a, [19a-123b,] 19a-123d, 19a-124, 19a-125, 19a-126h, 19a-145, 19a-148, 19a-148a, 19a-150, 19a-153, 19a-154, 19a-155, [19a-155a,] 19a-162, 19a-166, 19a-168b, 19a-168k, 19a-168p, 19a-169e, 19a-175, 19a-176, 19a-178, 19a-179, 19a-180, 19a-181a, 19a-182, 19a-183, 19a-184, 19a-186, 19a-187, 19a-195a, 19a-200, 19a-201, 19a-202, 19a-204, 19a-207, 19a-208, 19a-215, 19a-219, 19a-221, 19a-223, 19a-229, 19a-241, 19a-242, 19a-243, 19a-244, 19a-245, 19a-250, 19a-252, 19a-253, 19a-255, 19a-257, 19a-262, 19a-269, 19a-270, 19a-270a, 19a-279l, 19a-310, 19a-311, 19a-312, 19a-313, 19a-320, 19a-323, 19a-329, 19a-330, 19a-331, 19a-332, 19a-332a, 19a-333, 19a-341, 19a-401, 19a-402, 19a-406, 19a-409, 19a-420, 19a-421, 19a-422, 19a-423, 19a-424, 19a-425, 19a-426, 19a-427, 19a-428, 19a-490, 19a-490c, 19a-490d, 19a-490e, 19a-490g, 19a-491, 19a-491a, 19a-491b, 19a-492, 19a-493, 19a-493a, 19a-494, 19a-494a, 19a-495, 19a-496, 19a-497, 19a-499, 19a-500, 19a-501, 19a-503, 19a-504, 19a-504c, 19a-505, 19a-506, 19a-507a, 19a-507b, 19a-507c, 19a-507d, 19a-508, 19a-509a, 19a-512, 19a-514, 19a-515, 19a-517, 19a-518, 19a-519, 19a-520, 19a-521, 19a-521a, 19a-523, 19a-524, 19a-526, 19a-527, 19a-528, 19a-530, 19a-531, 19a-533, 19a-534a, 19a-535, 19a-535a, 19a-536, 19a-537, 19a-538, 19a-540, 19a-542, 19a-547, 19a-550, 19a-551, 19a-554, 19a-581, 19a-582, 19a-584, 19a-586, 20-8, 20-8a, 20-9, 20-10, 20-11, 20-11a, 20-11b, 20-12, 20-12a, 20-13, 20-13a, 20-13b, 20-13d, 20-13e, 20-14, 20-14j, 20-17, 20-18, 20-18a, 20-18b, 20-20, 20-27, 20-28a, 20-28b, 20-29, 20-37, 20-39a, 20-40, 20-45, 20-54, 20-55, 20-57, 20-58a, 20-59, 20-66, 20-68, 20-70, 20-71, 20-73, 20-73a, 20-74, 20-74a, 20-74i, [20-74o, 20-74p, 20-74q, 20-74r,] 20-744a, 20-744d, 20-86b, 20-86c, 20-86d, 20-86f, 20-86h, 20-90, 20-92, 20-93, 20-94, 20-94a, 20-96, 20-97, 20-99, 20-99a, 20-101a, 20-102aa TO 20-102ee, INCLUSIVE, 20-103a, 20-106, 20-107, 20-108, 20-109, 20-110, [20-111, 20-111b, 20-111c, 20-214,] 20-114, 20-122a, 20-122b, 20-122c, 20-123a, 20-126h, 20-126j, 20-126k, 20-126l, 20-126o, 20-126p, 20-126q, 20-126r, 20-126u, 20-126v, 20-127, 20-128a, 20-129, 20-130, 20-133, 20-138a, 20-138c, 20-139a, 20-140a, 20-141, 20-143, 20-146, 20-146a, 20-149, 20-153, 20-154, 20-162n,

20-162p, 20-183, 20-188, 20-189, 20-190, 20-192, 20-193, 20-195a, 20-195m, 20-195p, 20-196, 20-198, 20-199, 20-200, 20-202, 20-206, 20-206a, 20-206m, 20-206p, 20-207, 20-211, 20-212, 20-213, 20-214, 20-217, 20-218, 20-220, 20-221, 20-222, 20-222a, 20-223, 20-224, 20-226, 20-227, 20-228, 20-229, 20-231, 20-235a, 20-236, 20-238, 20-241, 20-242, 20-243, 20-247, 20-250, 20-252, 20-252a, 20-255a, 20-256, 20-258, 20-262, 20-263, 20-267, 20-268, 20-269, 20-271, 20-272, 20-341d, 20-341e, 20-341f, 20-341g, 20-341m, 20-358, 20-361, 20-365, 20-396, 20-402, 20-404, 20-406, 20-408, [20-412a, 20-412b,] 20-416, 20-474 TO 20-476, INCLUSIVE, 21-7, 21a-11, 21a-86a, 21a-86c, 21a-116, 21a-138, 21a-150, 21a-150a, 21a-150b, 21a-150c, 21a-150d, 21a-150f, 21a-150j, 21a-240, 21a-249, 21a-260, 21a-274, [21a-274a,] 21a-283, 21a-301, 21a-305, 21a-306, 22-6f, 22-6g, 22-6i, 22-131, 22-150, 22-152, 22-165, 22-332b, 22-344, 22-358, 22-417, 22a-29, 22a-54, 22a-65, 22a-66a, 22a-66l, 22a-66z, 22a-115, 22a-119, 22a-134g, 22a-134bb, 22a-137, 22a-163a, 22a-163i, 22a-176, 22a-191, 22a-192, 22a-208q, 22a-231, 22a-240, 22a-240a, 22a-295, 22a-300, 22a-308, 22a-337, 22a-352, 22a-354i, 22a-354k, 22a-354w, 22a-354x, 22a-354aa, 22a-355, 22a-356, 22a-358, 22a-361, 22a-363b, 22a-371, 22a-378, 22a-423, 22a-424, 22a-426, 22a-430, 22a-434a, 22a-449i, 22a-471, 22a-474, 22a-601, 25-32, 25-32b, 25-32c, 25-32d, 25-32e, 25-32f, 25-32g, 25-32h, 25-32i, 25-32k, 25-32l, 25-33, 25-33a, 25-33c, 25-33d, 25-33e, 25-33f, 25-33g, 25-33h, 25-33i, 25-33j, 25-33k, 25-33l, 25-33n, 25-34, 25-35, 25-36, 25-37a, 25-37b, 25-37c, 25-37d, 25-37e, 25-37f, 25-37g, 25-39a, 25-39b, 25-39c, 25-40, 25-43b, 25-43c, 25-46, 25-49, 25-102gg, 25-128, 25-129, 25-137, 26-22, 26-119, 26-141b, 26-192a, 26-192b, 26-192c, 26-192e, 26-236, 27-140aa, 31-23, [31-51p,] 31-40u, 31-51u, 31-101, 31-106, 31-111a, 31-111b, 31-121a, 31-222, 31-374, 31-397, 31-398, 31-400, 31-401, 31-402, 31-403, 32-23x, 38a-180, 38a-199, [38a-314,] 38a-214, 38a-514, 38a-539, 38a-583, 45a-743, 45a-745, 45a-749, 45a-750, 45a-757, 46a-28, 46a-126, 46b-26, 46b-68, 46b-172a, 47a-52, 52-146f, 52-146k, 52-473a, 52-557b, 53-332, [54-36i, 54-56g,] 54-102a, 54-102b, 54-142k, 54-203.

(b) If the term ["department of health services", "Connecticut Alcohol and Drug Abuse Commission", or "State Alcohol and Drug Abuse Commission"] "DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES" is used or referred to in any public or special act of [1993 or 1994] /1995 OR /1996, or in any section of the general statutes which is amended in [1993 or 1994] /1995 OR /1996, it shall be deemed to mean or refer to the department of public health. [and addiction services.]

(c) If the term ["commissioner of health services" or "executive director of the Connecticut Alcohol and Drug Abuse Commission"] "COMMISSIONER OF PUBLIC HEALTH AND ADDICTION SERVICES" is used or referred to in any public or special act of [1993 or 1994] /1995 OR /1996, or in any section of the general statutes which is amended in [1993 or 1994] /1995 OR /1996, it shall be deemed to mean or refer to the commissioner of public health. [and addiction services.]

Sec. 22. Section 19a-1d of the general statutes is repealed and the following is substituted in lieu thereof:

In accordance with the provisions of sections 4-5 to 4-8, inclusive, the governor shall appoint a commissioner of public health, [and addiction services,] who shall be the administrative head of the department. Said commissioner shall either (1) be a physician, graduated by an acceptable medical college, recognized by one of the med-

1996 P.A. 96-244, S. 16, 63; (Effective July 1, 1996)

FEBRUARY 1996

P.A. 96-244

1055

receipt of an itemized statement together with a copy of the advertisement as published. Any person who purchases a dog as a pet shall pay a fee of five dollars and procure a license and tag for such dog from the town clerk, in accordance with the provisions of section 22-338.

Sec. 16. This act shall take effect from its passage, except that sections 1 to 4, inclusive, shall take effect October 1, 1996.

Approved June 6, 1996. Effective as provided in section 16.

Substitute House Bill No. 5342  
**PUBLIC ACT NO. 96-244**

AN ACT CONCERNING REVISIONS TO THE EDUCATION STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 10-4b of the general statutes is repealed and the following is substituted in lieu thereof:

(b) If, after conducting an inquiry in accordance with subsection (a) of this section, the state board finds that a local or regional board of education has failed or is unable to provide educational opportunities to meet the requirements of this section, sections 10-4a, 10-14q, 10-15c, 10-16, 10-16b, AS AMENDED, 10-42, AS AMENDED, subsection (a) of section 10-43, sections 10-47b, 10-53, 10-54, 10-66i, 10-71, AS AMENDED, 10-76d, AS AMENDED, subsection (h) of section 10-76f, and sections 10-76g, 10-76m, 10-76o, 10-97, 10-203, AS AMENDED BY SECTION 15 OF THIS ACT, 10-220, AS AMENDED BY SECTION 17 OF THIS ACT, 10-227, 10-261, AS AMENDED BY SECTION 22 OF THIS ACT, 10-262j, AS AMENDED, 10-263, 10-266j, AS AMENDED, 10-266m, 10-273a, 10-277, and 10-280a, the state board shall (1) require the local or regional board of education to engage in a remedial process whereby such local or regional board of education shall develop and implement a plan of action through which compliance may be attained, or (2) order the local or regional board of education to take reasonable steps where such local or regional board has failed to comply with subdivision (3) of section 10-4a. Where a local or regional board of education is required to implement a remedial process pursuant to subdivision (1) of this subsection, upon request of such local or regional board, the state board shall make available to such local or regional board materials and advice to assist in such remedial process. If the state board finds that a local governmental body or its agent is responsible for such failure or inability, the state board may order such governmental body or agent to take reasonable steps to comply with the requirements of section 10-4a. The state board may not order an increase in the regular program expenditures, as defined in section 10-262f, AS AMENDED BY SECTIONS 23 AND 24 OF THIS ACT, of such local or regional board of education if such expenditures are in an amount at least equal to the minimum expenditure requirement in accordance with section 10-262j, AS AMENDED, provided that an increase in expenditures may be ordered in accordance with section 10-76d. If the state board finds that the state is responsible

deem necessary. If such changes are not made substantially as recommended within a reasonable time from the date of notice thereof, the State Board of Education or the local or regional board of education may make complaint to the Department of Public Health, which shall, after notice to and hearing of the parties interested, order such changes made in the lighting, ventilation or sanitary arrangements of such schoolhouse as it deems necessary. The local director of health shall supervise the sanitation in any school cafeteria. Each schoolhouse shall be provided with a safe and adequate water supply. The word "schoolhouse" shall include any buildings or premises in which instruction is afforded to not less than ten pupils at one time.] EACH LOCAL AND REGIONAL BOARD OF EDUCATION SHALL MAINTAIN THE FACILITIES UNDER ITS JURISDICTION IN ACCORDANCE WITH THE APPLICABLE PUBLIC HEALTH STATUTES AND REGULATIONS ADOPTED BY THE COMMISSIONER OF PUBLIC HEALTH.

Sec. 16. Subsection (a) of section 10-204a of the general statutes, as amended by sections 12 and 21 of public act 95-257, is repealed and the following is substituted in lieu thereof:

(a) Each local or regional board of education, or similar body governing a nonpublic school or schools, shall require each child to be protected by adequate immunization against diphtheria, pertussis, tetanus, poliomyelitis, measles, mumps, rubella, hemophilus influenzae type B and any other vaccine required by the schedule for active immunization adopted pursuant to section 19a-7f, AS AMENDED, before being permitted to [attend] ENROLL IN any PROGRAM OPERATED BY A public or nonpublic [elementary or secondary] school under its jurisdiction. Before being permitted to enter seventh grade, a child shall receive a second immunization against measles. Any such child who (1) presents a certificate from a physician or local health agency stating that initial immunizations have been given to such child and additional immunizations are in process under guidelines and schedules specified by the Commissioner of Public Health; or (2) presents a certificate from a physician stating that in the opinion of such physician, such immunization is medically contraindicated because of the physical condition of such child; or (3) presents a statement from the parents or guardian of such child that such immunization would be contrary to the religious beliefs of such child; or (4) in the case of measles, mumps or rubella, presents a certificate from a physician or from the director of health in such child's present or previous town of residence, stating that the child has had a confirmed case of such disease; or (5) in the case of hemophilus influenzae type B has passed his fifth birthday or (6) in the case of pertussis, has passed his sixth birthday, shall be exempt from the appropriate provisions of this section.

Sec. 17. Subsection (c) of section 10-220 of the general statutes, as amended by section 6 of public act 95-182, is repealed and the following is substituted in lieu thereof:

(c) [(1)] By November 1, 1994, and annually thereafter, each local and regional board of education shall submit to the Commissioner of Education a strategic school profile report for each school under its jurisdiction and for the school district as a whole. The superintendent of each local and regional school district shall present the profile report at the next regularly scheduled public meeting of the board of education after each such November first. The profile report [shall be developed in accordance with a uniform format established by the state Department of Education

1998 **P.A. 98-252, S. 39, 80; (Effective July 1, 1998)**

**FEBRUARY 1998**

**P.A. 98-252**

**1271**

provided such surviving spouse provides written notification of such election to the board and returns such contributions, plus interest, not later than October 1, 1998.

Sec. 7. This act shall take effect from its passage, section 4 of this act shall be applicable to any person receiving benefits from the Teachers' Retirement System on the effective date of this act, and section 5 of this act shall be applicable to the surviving spouse of a member who dies on or after August 15, 1997.

*Approved June 8, 1998. Effective as provided in section 7.*

Substitute House Bill No. 5118

**PUBLIC ACT NO. 98-252**

**AN ACT CONCERNING REVISIONS TO THE EDUCATION STATUTES AND THE REGISTRATION OF INTERPRETERS FOR THE DEAF AND HEARING IMPAIRED.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 2 of public act 97-224 is repealed and the following is substituted in lieu thereof:

(a) There is established the Connecticut Higher Education Trust to promote and enhance the affordability and accessibility of higher education for residents of the state. The trust shall constitute an instrumentality of the state and shall perform essential governmental functions, as provided in sections 1 to 10, inclusive, of [this act] PUBLIC ACT 97-224. The trust shall receive and hold all payments and deposits or contributions intended for the trust, as well as gifts, bequests, endowments or federal, state or local grants and any other FUNDS FROM ANY public or private source [of funds] and all earnings until disbursed in accordance with sections 1 to 10, inclusive, of [this act] PUBLIC ACT 97-224.

(b) The amounts on deposit in the trust shall not constitute property of the state and the trust shall not be construed to be a department, institution or agency of the state. Amounts on deposit in the trust shall not be commingled with state funds and the state shall have no claim to or against, or interest in, such funds. Any contract entered into by or any obligation of the trust shall not constitute a debt or obligation of the state and the state shall have no obligation to any designated beneficiary or any other person on account of the trust and all amounts obligated to be paid from the trust shall be limited to amounts available for such obligation on deposit in the trust. The amounts on deposit in the trust may only be disbursed in accordance with the provisions of sections 1 to 10, inclusive, of [this act] PUBLIC ACT 97-224. The trust shall continue in existence as long as it holds any deposits or has any obligations and until its existence is terminated by law and upon termination any unclaimed assets shall return to the state. Property of the trust shall be governed by section 3-61a.



(c) [By November 1, 1994, and annually thereafter] ANNUALLY, each local and regional board of education shall submit to the Commissioner of Education a strategic school profile report for each school under its jurisdiction and for the school district as a whole. The superintendent of each local and regional school district shall present the profile report at the next regularly scheduled public meeting of the board of education after each [such] November first. The profile report shall provide information on measures of (1) student needs, (2) school resources, INCLUDING TECHNOLOGICAL RESOURCES AND UTILIZATION OF SUCH RESOURCES AND INFRASTRUCTURE, (3) student and school performance, (4) equitable allocation of resources among its schools, and (5) reduction of racial, ethnic and economic isolation.

Sec. 39. Subsection (a) of section 10-204a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Each local or regional board of education, or similar body governing a nonpublic school or schools, shall require each child to be protected by adequate immunization against diphtheria, pertussis, tetanus, poliomyelitis, measles, mumps, rubella, hemophilus influenzae type B and any other vaccine required by the schedule for active immunization adopted pursuant to section 19a-7f before being permitted to enroll in any program operated by a public or nonpublic school under its jurisdiction. Before being permitted to enter seventh grade, a child shall receive a second immunization against measles. Any such child who (1) presents a certificate from a physician or local health agency stating that initial immunizations have been given to such child and additional immunizations are in process under guidelines and schedules specified by the Commissioner of Public Health; or (2) presents a certificate from a physician stating that in the opinion of such physician, such immunization is medically contraindicated because of the physical condition of such child; or (3) presents a statement from the parents or guardian of such child that such immunization would be contrary to the religious beliefs of such child; or (4) in the case of measles, mumps or rubella, presents a certificate from a physician or from the director of health in such child's present or previous town of residence, stating that the child has had a confirmed case of such disease; or (5) in the case of hemophilus influenzae type B has passed his fifth birthday or (6) in the case of pertussis, has passed his sixth birthday, shall be exempt from the appropriate provisions of this section. IF THE PARENTS OR GUARDIANS OF ANY CHILDREN ARE UNABLE TO PAY FOR SUCH IMMUNIZATIONS, THE EXPENSE OF SUCH IMMUNIZATIONS SHALL, ON THE RECOMMENDATIONS OF SUCH BOARD OF EDUCATION, BE PAID BY THE TOWN.

Sec. 40. Section 10-226a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Each local or regional board of education shall annually submit to the State Board of Education at such time and in such manner as [said] THE STATE board may prescribe such data as [said] THE STATE board may require in order to determine the total number of pupils AND TEACHERS of racial minorities AND PUPILS ELIGIBLE FOR FREE OR REDUCED PRICE LUNCHESES in the schools under the jurisdiction of each LOCAL OR REGIONAL board and, in such cases as [said] THE STATE board shall determine, the number of [such] pupils AND

2011 P.A. 11-242, S. 13. (Effective October 1, 2011)

2338

P.A. 11-242

PUBLIC ACTS

Substitute House Bill No. 6618

**Public Act No. 11-242**

**AN ACT CONCERNING VARIOUS REVISIONS TO PUBLIC HEALTH RELATED STATUTES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 19a-17 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(a) Each board or commission established under chapters 369 to 376, inclusive, 378 to 381, inclusive, and 383 to 388, inclusive, and the Department of Public Health with respect to professions under its jurisdiction that have no board or commission may take any of the following actions, singly or in combination, based on conduct that occurred prior or subsequent to the issuance of a permit or a license upon finding the existence of good cause:

- (1) Revoke a practitioner's license or permit;
- (2) Suspend a practitioner's license or permit;
- (3) Censure a practitioner or permittee;
- (4) Issue a letter of reprimand to a practitioner or permittee;

(5) Place a practitioner or permittee on probationary status and require the practitioner or permittee to:

(A) Report regularly to such board, commission or department upon the matters which are the basis of probation;

(B) Limit practice to those areas prescribed by such board, commission or department;

(C) Continue or renew professional education until a satisfactory degree of skill has been attained in those areas which are the basis for the probation;

- (6) Assess a civil penalty of up to twenty-five thousand dollars;

(7) In those cases involving persons or entities licensed or certified pursuant to sections 20-341d, 20-435, 20-436, 20-437, 20-438, 20-475 and 20-476, require that restitution be made to an injured property owner; or

(8) Summarily take any action specified in this subsection against a practitioner's license or permit upon receipt of proof that such practitioner has been:

(A) Found guilty or convicted as a result of an act which constitutes a felony under (i) the laws of this state, (ii) federal law, or (iii) the laws of another jurisdiction and which, if committed within this state, would have constituted a felony under the laws of this state; or

the program. The department shall establish evaluation and monitoring requirements to be applied to subsequent years of the programs.]

(d) [The health department of each city selected for a needle and syringe exchange program or the person] Any organization conducting [the] a needle and syringe exchange program shall submit a report evaluating the effectiveness of the program to the Department of Public Health. [The department shall compile all information received on the programs and report to the joint standing committees of the General Assembly having cognizance of matters relating to public health and appropriations and the budgets of state agencies.]

Sec. 12. Subsection (b) of section 20-32 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(b) All licensed chiropractors applying for license renewal shall be required to participate in continuing education programs. The Commissioner of Public Health shall adopt regulations, in accordance with chapter 54, to (1) define basic requirements for continuing education programs, (2) delineate qualifying programs, (3) establish a system of control and reporting, and (4) provide for waiver of the continuing education requirement for good cause. For registration periods beginning on and after October 1, 2012, the Commissioner of Public Health, in consultation with the Board of Chiropractic Examiners, shall, on or before October 1, 2011, and biennially thereafter, issue a list that includes not more than five mandatory topics for continuing education activities that shall be required for the two subsequent registration periods following the date of issuance of such list.

Sec. 13. Section 10-204a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) Each local or regional board of education, or similar body governing a nonpublic school or schools, shall require each child to be protected by adequate immunization against diphtheria, pertussis, tetanus, poliomyelitis, measles, mumps, rubella, hemophilus influenzae type B and any other vaccine required by the schedule for active immunization adopted pursuant to section 19a-7f, as amended by this act, before being permitted to enroll in any program operated by a public or nonpublic school under its jurisdiction. Before being permitted to enter seventh grade, a child shall receive a second immunization against measles. Any such child who (1) presents a certificate from a physician, physician assistant, advanced practice registered nurse or local health agency stating that initial immunizations have been given to such child and additional immunizations are in process under guidelines and schedules specified by the Commissioner of Public Health; or (2) presents a certificate from a physician, physician assistant or advanced practice registered nurse stating that in the opinion of such physician, physician assistant or advanced practice registered nurse such immunization is medically contraindicated because of the physical condition of such child; or (3) presents a statement from the parents or guardian of such child that such immunization would be contrary to the religious beliefs of such child; or (4) in the case of measles, mumps or rubella, presents a certificate from a physician, physician assistant or advanced practice registered nurse or from the director of health in such child's present or previous town of residence, stating that the child has had a confirmed case of such disease; or (5) in the case of hemophilus influenzae type B has passed his fifth birthday; or (6) in the case of pertussis, has

passed his sixth birthday, shall be exempt from the appropriate provisions of this section. If the parents or guardians of any children are unable to pay for such immunizations, the expense of such immunizations shall, on the recommendations of such board of education, be paid by the town.

(b) The definitions of adequate immunization shall reflect the schedule for active immunization adopted pursuant to section 19a-7f, as amended by this act, and be established by regulation adopted in accordance with the provisions of chapter 54 by the Commissioner of Public Health, who shall also be responsible for providing procedures under which said boards and said similar governing bodies shall collect and report immunization data on each child to the Department of Public Health for compilation and analysis by said department.

(c) The Commissioner of Public Health may issue a temporary waiver to the schedule for active immunization for any vaccine if the National Centers for Disease Control and Prevention recognizes a nation-wide shortage of supply for such vaccine.

Sec. 14. Subsection (b) of section 19a-77 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(b) For licensing requirement purposes, child day care services shall not include such services which are:

(1) (A) Administered by a public school system, or (B) administered by a municipal agency or department and located in a public school building;

(2) Administered by a private school which is in compliance with section 10-188 and is approved by the State Board of Education or is accredited by an accrediting agency recognized by the State Board of Education;

(3) Classes in music, dance, drama and art that are no longer than two hours in length; classes that teach a single skill that are no longer than two hours in length; library programs that are no longer than two hours in length; scouting; programs that offer exclusively sports activities; rehearsals; academic tutoring programs; or programs exclusively for children thirteen years of age or older;

(4) Informal arrangements among neighbors [or] and formal or informal arrangements among relatives in their own homes, provided the relative is limited to any of the following degrees of kinship by blood or marriage to the child being cared for or to the child's parent: Child, grandchild, sibling, niece, nephew, aunt, uncle or child of one's aunt or uncle;

(5) Drop-in supplementary child care operations for educational or recreational purposes and the child receives such care infrequently where the parents are on the premises;

(6) Drop-in supplementary child care operations in retail establishments where the parents [are on the premises] remain in the same store as the child for retail shopping, [in accordance with section 19a-77a, provided that] provided the drop-in supplementary child-care operation does not charge a fee and does not refer to itself as a child day care center;

## Delaware

LexisNexis Academic

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\*\*\* This document is current through 79 Del. Laws, Ch. 191 \*\*\*

\*\*\* Annotations current through cases posted as of December 6, 2013 \*\*\*

TITLE 14. EDUCATION  
PART I. FREE PUBLIC SCHOOLS  
CHAPTER 1. DEPARTMENT OF EDUCATION  
SUBCHAPTER II. POWERS AND DUTIES

GO TO DELAWARE STATUTES ARCHIVE DIRECTORY

14 Del. C. § 131 (2013)

§ 131. Public school enrollees' immunization program; exemptions

(a) The Department shall from time to time, with advice from the Division of Public Health, adopt and promulgate rules and regulations to establish an immunization program to protect pupils enrolled in public schools from certain diseases. Such rules and regulations shall include at least the following:

(1) The designation of a basic series of immunizations to be administered according to these rules;

(2) The requirement that all persons enrolling in the public schools at any age or level as authorized by this title shall have:

a. Been immunized according to the required program prior to the time of enrollment in the Delaware schools;

b. Begun the series of immunizations not later than the time of enrollment to be completed within a reasonable time as prescribed by the Department in relation to the particular immunization involved; or

c. Presented written documentation of any claim of prior immunization in the form of a statement from the immunizing physician or agency or such other form as may from time to time be approved by regulation of the Department;

(3) Provision that persons seeking to be enrollees of the public school who have not been immunized or do not meet the requirements for immunization within the time prescribed shall be denied further attendance in the public schools;

(4) Provision for written notification of the parent, or legal guardian of an enrollee, of a pending exclusion;

(5) Provision for exemption from any or all of the immunization program prescribed for a particular enrollee upon a written statement from a physician, i.e., medical doctor or doctor of osteopathy, stating that the enrollee should not receive the prescribed immunization or immunizations required in the basic series because of the reasonable certainty of a reaction detrimental to that person. A history of clinical illness of measles or rubella shall not be accepted as cause for exemption;

(6) Provision for exemption from the immunization program for an enrollee whose parents or legal guardian, because of individual religious beliefs, reject the concept of immunization. Such a request for exemption shall be supported by the affidavit herein set forth:

#### AFFIDAVIT OF RELIGIOUS BELIEF

STATE OF DELAWARE

..... COUNTY

1. (I) (We) (am) (are) the (parent(s)) (legal guardian(s)) of

.....

Name of Child

2. (I) (We) hereby (swear) (affirm) that (I) (we) subscribe to a belief in a relation to a Supreme Being involving duties superior to those arising from any human relation.

3. (I) (We) further (swear) (affirm) that our belief is sincere and meaningful and occupies a place in (my) (our) life parallel to that filled by the orthodox belief in God.

4. This belief is not a political, sociological or philosophical view of a merely personal moral code.

5. This belief causes (me) (us) to request an exemption from the mandatory school vaccination program for.....

Name of Child

.....  
 Signature of Parent(s) or Legal Guardian(s)

SWORN TO AND SUBSCRIBED before me, a registered Notary Public, this  
 ..... day of ....., .....

.....(Seal)  
 Notary Public

My commission expires:

.....

(7) Provision that, in the event that the Division of Public Health of the Department of Health and Social Services of the State declares that there is throughout the State or in a particular definable region of the State an epidemic of a vaccine preventable disease, any child who is enrolled in a public school and who has been exempt from the immunization program for any of the causes authorized herein shall be temporarily excluded from attendance at the public school. Rules and regulations of the Department shall provide that in the event of such temporary exclusion, it will be the responsibility of the school and the parents or legal guardian of the enrollee to assist the enrollee in keeping up with that enrollee's school work and that no academic penalty shall be suffered by the enrollee upon return to school if the student has maintained that student's relationship with the school through the assignments prescribed. An enrollee so temporarily excluded shall be authorized to return to school upon the lifting by the Division of Public Health of the epidemic declaration;

(8) Provision that in any situation where the parents or legal guardian of the enrollee states that the enrollee has been immunized, but that the record has been lost or destroyed by the provider of the immunizations, the following procedure may be carried out by that responsible person and shall be accepted by the local school district board of education or its designee in lieu of compliance with the immunization requirement:

a. The responsible person, or the school nurse, shall sign a statement that the record of the enrollee's immunization has been lost; and

b. The responsible person shall be responsible for the enrollee obtaining 1 dose of each of the vaccines prescribed in the basic series of immunization;

(9) Provision for an enrollee who has reached the statutory age of majority set by laws for the State to be responsible for that enrollee's immunization program and for execution of the request for religious exemption herein authorized;

(10) Provision that it shall be the responsibility of each Delaware public school district to administer, or prescribe a designee to administer, rules and regulations herein authorized and promulgated by the Department of Education.

(b) Appeals from the decision of the Department rendered pursuant to this section shall be to the Superior Court and shall be made in the same manner as is provided by the Superior Court Civil Rules for appeals from commissions, boards and agencies. Such appeal shall be on the record before the Department.

**HISTORY:** 62 Del. Laws, c. 404, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 14; 72 Del. Laws, c. 449, § 1; 73 Del. Laws, c. 46, § 1; 74 Del. Laws, c. 76, § 2.



1980 62 Del. Laws, c. 404, § 1 (Approved July 11, 1980)

940

# CHAPTER 404

## FORMERLY

### SENATE BILL NO. 650

AN ACT TO AMEND DELAWARE CODE, TITLE 14 BY PROVIDING FOR A DELAWARE PUBLIC SCHOOL ENROLLEES' IMMUNIZATION PROGRAM AND EXEMPTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Delaware Code, Title 14, Chapter 1 by adding to that chapter a new §131 as follows:

"§131 Delaware Public School Enrollees' Immunization Program and Exemptions

The Board shall from time to time, with advice from the Division of Public Health, adopt and promulgate rules and regulations to establish an immunization program to protect pupils enrolled in public schools from certain diseases. Such rules and regulations shall include at least the following:

(a) The designation of a basic series of immunizations to be administered according to these rules;

(b) The requirement that all persons enrolling in the public schools at any age or level as authorized by the provisions of this Title shall have;

(1) been immunized according to the required program prior to the time of enrollment in the Delaware schools, or

(2) begun the series of immunizations not later than the time of enrollment to be completed within a reasonable time as prescribed by the Board in relation to the particular immunization involved,

(3) presented written documentation of any claim of prior immunization in the form of a statement from the immunizing physician or agency or such other form as may from time to time be approved by regulation of the Board.

(c) Provision that persons seeking to be enrollees of the public school who have not been immunized or do not meet the requirements for immunization within the time prescribed shall be denied further attendance in the public schools.

(d) Provision for written notification of the parent, or legal guardian of an enrollee, of a pending exclusion.

(e) Provision for exemption from any or all of the immunization program prescribed for a particular enrollee upon a written statement from a physician, i.e. Medical Doctor or Doctor of Osteopathy, stating that the enrollee should not receive the prescribed immunization or immunizations required in the basic series because of the reasonable certainty of a reaction detrimental to that person. A history of clinical illness of measles or rubella shall not be accepted as cause for exemption.

(f) Provision for exemption from the immunization program for an enrollee whose parents or legal guardian, because of individual religious beliefs, reject the concept of immunization. Such a request for exemption shall be supported by the affidavit herein set forth:

# AFFIDAVIT OF RELIGIOUS BELIEF

STATE OF DELAWARE)

\_\_\_\_\_ COUNTY)

1. (I) (We) (am) (are) the parent(s) legal guardian(s) of \_\_\_\_\_  
Name of Child
2. (I) (We) hereby (swear) (affirm) that (I) (we) subscribe to a belief in a relation to a Supreme Being involving duties superior to those arising from any human relation.
3. (I) (We) further (swear) (affirm) that our belief is sincere and meaningful and occupies a place in (my) (our) life parallel to that filled by the orthodox belief in God.
4. This belief is not a political, sociological or philosophical view of a merely personal moral code.
5. This belief causes (me) (us) to request an exemption from the mandatory school vaccination program for \_\_\_\_\_  
Name of Child

\_\_\_\_\_  
Signature of Parent(s) or Legal Guardian(s)

SWORN TO AND SUBSCRIBED before me, a registered Notary Public, this \_\_\_\_ day of \_\_\_\_\_, 198\_\_.

\_\_\_\_\_  
Notary Public (Seal)

My commission expires:

\_\_\_\_\_

(g) Provision that in the event that the Division of Public Health of the Department of Health and Social Services of the State of Delaware declares that there is throughout the State or in a particular definable region of the State an epidemic of a vaccine preventable disease, any child who is enrolled in a public school and who has been exempt from the immunization program for any of the causes authorized herein shall be temporarily excluded from attendance at the public school. Rules and

regulations of the State Board shall provide that in the event of such temporary exclusion, it will be the responsibility of the school and the parents or legal guardian of the enrollee to assist him or her in keeping up with his or her school work and that no academic penalty shall be suffered by the enrollee upon return to school if the student has maintained his or her relationship with the school through the assignments prescribed. An enrollee so temporarily excluded shall be authorized to return to school upon the lifting by the Division of Public Health of the epidemic declaration.

(h) Provision that in any situation where the parents or legal guardian of the enrollee states that he or she has been immunized, but that the record has been lost or destroyed by the provider of the immunizations, the following procedure may be carried out by that responsible person and shall be accepted by the local school district board of education or its designee in lieu of compliance with the immunization requirement:

(1) The responsible person, or the school nurse, shall sign a statement that the record of the enrollee's immunization has been lost, and

(2) The responsible person shall be responsible for the enrollee obtaining one dose of each of the vaccines prescribed in the basic series of immunization.

(i) Provision for an enrollee who has reached the statutory age of majority set by laws for the State of Delaware to be responsible for his or her immunization program and for execution of the request for religious exemption herein authorized.

(j) Provision that it shall be the responsibility of each Delaware public school district to administer, or prescribe a designee to administer, rules and regulations herein authorized and promulgated by the State Board of Education.

Appeals from the decision of the Board rendered pursuant to this section shall be to the Superior Court and shall be made in the same manner as is provided by the Superior Court Civil Rules for appeals from Commissions, Boards, and Agencies. Such appeal shall be on the record before the Board.

Approved July 11, 1980.

1995 ; 70 Del. Laws, c. 186, § 1; (Approved July 10, 1995)

Chapter 185  
Vol. 70

479

justified in doing so. For purposes of this section a proceeding is 'substantially justified' if it had a reasonable basis in law or in fact at the time that it was initiated."

Approved July 10, 1995

## CHAPTER 186

### FORMERLY

### SENATE BILL NO. 221

### AS AMENDED BY

### SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 1 OF THE DELAWARE CODE RELATING TO THE DUTIES  
AND POWERS OF THE CODE REVISORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §211, Title 1, Delaware Code by inserting at the end thereof the following:

"(c) The Revisors shall gender neutralize or otherwise insure that a solely masculine or feminine designation never occurs unless it could only apply to one gender."

Section 2. The provisions of this Act shall encompass all legislation enacted on or after January 10, 1995.

Approved July 10, 1995

71 Del. Laws, c. 180, § 14; (Approved July 16, 1997) (effective July, 31 1997)

512

Chapter 180  
Vol. 71

CHAPTER 180

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 81

AS AMENDED BY HOUSE AMENDMENT NOS. 2, 4 AND 5

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO  
EDUCATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. This Act may be referred to as the "Department of Education Act of 1997".

Section 2. Amend Chapter 1, Title 14, Delaware Code by replacing the words "STATE  
BOARD OF EDUCATION" in the chapter heading with "DEPARTMENT OF EDUCATION".

Section 3. Amend §§ 101-106, Title 14, Delaware Code by deleting them in their entirety  
and inserting in lieu thereof the following:

"§ 101. Establishment of Department of Education.

The general administration of the educational interests of the State shall be vested  
in a Department of Education within the Executive Branch, hereinafter in this title  
referred to as the 'Department'.

§ 102. Secretary; Deputy, Associate, and Assistant Secretaries; Acting Secretary;  
appointment.

(a) The administrator and head of the Department shall be the Secretary of  
Education, who shall be a graduate of an accredited college and shall have not less than 5  
years' experience in teaching and administration, with experience in each such category.  
The Secretary shall be appointed by the Governor, with the advice and consent of the  
Senate, and shall serve at the pleasure of the Governor. He or she shall be paid a salary as  
determined by the General Assembly in the annual appropriations act. The Secretary of  
Education shall become a bona fide resident of the State within 6 months after his or her  
appointment; provided, however, that upon good cause shown, the Governor may grant  
an additional extension of 6 months.

(b) In the event the position of Secretary is vacant, the Governor, by  
appointment, shall have the power to fill the position or positions of Deputy, Associate,  
or Assistant Secretaries of Education as are vacant. Persons so appointed shall serve at  
the pleasure of the Governor and, upon the position of Secretary being filled, such  
persons may be removed by the Secretary with the written approval of the Governor.

(c) In the event of death, resignation, temporary incapacity or removal of the  
Secretary and prior to the appointment of his or her successor, the Governor may appoint  
the Deputy Secretary or an Associate Secretary of Education to serve as Acting Secretary.  
The Secretary may, during his or her absence from the State, appoint the Deputy  
Secretary or an Associate Secretary to serve as Acting Secretary during such absence. In  
either case, the Acting Secretary shall have all the powers and perform all the duties and  
functions of the Secretary during his or her absence or incapacity or until his or her  
successor is duly qualified and appointed.

§ 103. Powers, duties, and functions of the Secretary.

Section 12: Amend § 127, Title 14, Delaware Code by inserting the words "Department of Education with the approval of the" between "The" and "State" in the first line thereof and by replacing all subsequent references to "Board" or "State Board" with "Department".

Section 13: Amend §§ 128-130, Title 14, Delaware Code by deleting them in their entirety.

Section 14: Amend § 131, Title 14, Delaware Code by deleting the words "Board" or "State Board" wherever they appear therein and inserting the word "Department" in lieu thereof.

Section 15: Amend § 132, Title 14, Delaware Code by replacing the words "State Superintendent" with "Secretary" in subsection (a); by deleting the words ", upon approval of the State Board of Education" in subsection (a); by replacing the words "Public Instruction" with the word "Education" in subsection (d); and by replacing the words "State Board" with the word "Department" in subsection (e).

Section 16: Amend § 203, Title 14, Delaware Code by inserting the words "Department with the approval of the" between "The" and "State" in the first sentence.

Section 17: Amend § 204, Title 14, Delaware Code by deleting it in its entirety.

Section 18: Amend § 205, Title 14, Delaware Code by inserting the words "Department of Education with the approval of the" between "The" and "State" in the first line thereof.

Section 19: Amend § 206(d) and § 207, Title 14, Delaware Code by replacing the words "of Public Instruction" with "of Education".

Section 20: Amend §§ 403(a) and 407(b), Title 14, Delaware Code, by replacing the words "State Board" with the word "Department".

Section 21: Amend § 408, Title 14, Delaware Code by replacing the existing text of subsection (c) with "The Department of Education shall annually calculate the local cost per pupil expended by each school district for each type of pupil for the school year immediately preceding and shall annually certify each district's local cost per pupil expenditure by September 1 of each year."; by deleting the word "State Board" in the formula under subsection (d) and inserting "Department" in lieu thereof; and by replacing the words "Public Instruction" in subsection (e) with the word "Education".

Section 22: Amend § 409(b)(3), Title 14, Delaware Code to replace "Public Instruction" with "Education".

Section 23: Amend § 501, Title 14, Delaware Code by replacing "State Board" with "Department of Education".

Section 24: Amend § 503, Title 14, Delaware Code by replacing "Board of Education (hereinafter in this chapter, 'State Board')" with "Department of Education (hereinafter in this chapter, 'Department') with the approval of the State Board of Education (hereinafter in this chapter, 'State Board')" in the first sentence thereof; and by inserting "Department with the approval of the" between "The" and "State" in the last sentence thereof.

Section 25: Amend §§ 504(b) & § 504A(c), Title 14, Delaware Code to replace the words "State Board" with "Department with the approval of the State Board" wherever they appear.

Section 26: Amend § 509, Title 14, Delaware Code to replace all references to the "State Board" with "Department" and to replace the words "Public Instruction" wherever they appear with the word "Education".

Section 27: Amend § 510, Title 14, Delaware Code, to replace all references to the words "Public Instruction" with the word "Education".

Section 28: Amend § 511, Title 14, Delaware Code to replace the reference to "State Board" in subsection (c) with "Department"; to insert a new sentence after the first sentence of

**2000 72 Del. Laws, c. 449, § 1; (Approved July 18, 2000)**

**Chapter 447**

**Vol. 72**

(2) The State's obligation to the Special Pension Fund authorized by Volume 61, Chapter 455, Laws of Delaware, to implement the provisions of §5532(g) of this Chapter in fiscal year 2001 shall be the lump sum actuarial liability of the benefits granted."

Approved July 21, 2000

**CHAPTER 448**

**FORMERLY**

**SENATE BILL NO. 398**

**AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO CASUALTY INSURANCE CONTRACTS.**

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :**

Section 1. Amend §3904(b), Title 18, Delaware Code, by deleting paragraph (3) thereof in its entirety and substituting in lieu thereof the following:

"(3) The excluded driver or drivers shall be required to furnish proof that the coverage required under Delaware law is carried with another company or through the Delaware Automobile Insurance Plan, or surrender his or her motor vehicle operator's license within 30 days."

Approved July 18, 2000

**CHAPTER 449**

**FORMERLY**

**SENATE BILL NO. 405**

**AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EXEMPTIONS FOR PUBLIC SCHOOLS ENROLLEES' AND LEAD SCREENING.**

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :**

Section 1. Amend §131, Title 14 of the Delaware Code by renaming the existing subsection (b) as subsection (c) and adding a new subsection (b) to read as follows:

"(b) All kindergarten enrollees for the 2000-2001 school year shall be exempt from the provisions of Chapter 26 of Title 16, Delaware Code."

Approved July 18, 2000

2001 73 Del. Laws, c. 46, § 1; (Approved June 21, 2001)

Chapter 45  
Vol.73

# CHAPTER 45

## FORMERLY

### SENATE BILL NO. 109 AS AMENDED BY SENATE AMENDMENT NO. 1

#### AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CHILD SEX ABUSE INFORMATION REPOSITORY.

#### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. An Act to amend §8550(2), Title 11 of the Delaware Code by deleting said subsection and inserting in lieu thereof the following:

"(2) Child sexual abuse means any of the following crimes committed against a child:

- A. any sexual offense or child exploitation in violation of any offense within Chapter 5, Subchapter II, Subpart D and Subchapter V of Title 11 committed by an adult; or
- B. notwithstanding §1009 Title 10, any adjudication of delinquency which, if the person had been charged as an adult, would constitute an offense in violation of any offense within Chapter 5, Subchapter II, Subpart D and Subchapter V of Title 11 committed by a juvenile; or
- C. any conviction, plea, or adjudication of delinquency under the laws of another State, territory or jurisdiction which is the same as or equivalent to the preceding specified offenses."

Section 2. Amend §8561, Title 11 by adding a new subsection as follows:

"(h) No person who has been convicted of having committed a crime of child sexual abuse as defined in §8550(2) of this Title shall have direct access to a child care facility."

Approved June 21, 2001

# CHAPTER 46

## FORMERLY

### SENATE BILL NO. 155

#### AN ACT TO AMEND TITLE 14 AND TITLE 16 OF THE DELAWARE CODE RELATING TO THE CHILDHOOD LEAD POISONING PREVENTION ACT.

#### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §131(b), Title 14 of the Delaware Code by deleting the dates "2000-2001" and inserting in lieu thereof the following: "2001-2002 and 2002-2003".

Section 2. Amend Chapter 26, Title 16 of the Delaware Code by inserting a new subsection designated §2605, which shall read as follows:

"§2605. Childhood Lead Poisoning Advisory Committee.

- (a) There is hereby established the Childhood Lead Poisoning Prevention Advisory Committee to ensure the implementation of the Childhood Lead Poisoning Prevention Act established pursuant to this chapter and to make any necessary recommendations for the implementation of the program or improvements of the processes to be followed by the agencies responsible for the implementation of said plan.



Chapter 46  
Vol.73

- (b) The Committee shall semi-annually prepare and distribute a report regarding the Childhood Lead Poisoning Prevention Act, the intervention activities, studies of incidence, the State Blood Lead Screening Program, monitoring and implementation of regulations promulgated pursuant to the provisions set forth under this chapter.
- (c) The Committee shall be co-chaired by the Secretary of the Department of Health and Social Services or his or her designee and the Secretary of Education or his or her designee and shall have no more than seven members. The Secretary of Education and the Secretary of Health and Social Services shall, after consultation with the Governor, appoint seven members comprised of individuals which shall include a representative of the Department of Services for Children, Youth and their Families, which must represent the interests of daycare licensing, a representative of the medical community at large who is a practicing physician, an administrative representative of a school district, and a public member.
- (d) The Committee will sunset upon full implementation of the Childhood Lead Poisoning Prevention Act."

Approved June 21, 2001

CHAPTER 47

FORMERLY

SENATE BILL NO. 166

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO FIDUCIARY ADMINISTRATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :

Section 1. Amend §3402 of Title 12 by deleting the words "and the performance of such agent shall be deemed that of the fiduciary" from the last sentence thereof and inserting the following words in lieu thereof: "but shall not otherwise be liable for the conduct of such agent".

Approved June 21, 2001

CHAPTER 48

FORMERLY

SENATE BILL NO. 169

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO TRUSTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 12, Delaware Code, by adding a new section 3527 to read as follows:

"§3527 Total return unitrusts

(a) In this section:

(1) "Disinterested person" means a person who is not a "related or subordinate party" (as defined in §672(c) of the Internal Revenue Code [26 U.S.C. §1, et seq.] or any successor provision thereof (hereinafter referred to in this section as the "I.R.C.)) with respect to the person then acting as trustee of the trust and excludes the trustee of the trust and any interested trustee.

(2) "Income trust" means a trust, created by either an inter vivos or a testamentary instrument, which directs or permits the trustee to distribute the net income of the trust to one or more persons, either in fixed proportions or in amounts or proportions determined by the trustee. Notwithstanding the foregoing, no trust that otherwise is an "income trust" shall qualify hereunder, if it may be subject to taxation

**74 Del. Laws, c. 76, § 2.** (Approved June 30, 2003)

Chapter 74  
Vol. 74

CHAPTER 74

FORMERLY

SENATE BILL NO. 54

AN ACT TO AMEND TITLE 15 RELATING TO PRESIDENTIAL PRIMARY ELECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :

Section 1. Amend Title 15, Section 3181(a) of the Delaware Code by deleting the phrase "shall be conducted on the Saturday next following the day on which the state of New Hampshire elects to conduct a presidential primary election" and substituting in lieu thereof the following "shall be conducted on the first Tuesday in February in the calendar year of a Presidential Election".

Section 2. Amend Title 15, Section 3183 of the Delaware Code by deleting the words "and primary election dates" from the heading, by deleting the entire paragraph (c) and by redesignating paragraph "(d)" as "(c)".

Approved June 30, 2003

CHAPTER 75

FORMERLY

SENATE BILL NO. 68

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO PROFESSIONAL INCENTIVE PROGRAMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :

Section 1. Amend § 3419(c)(1), Title 14 of the Delaware Code, by striking the period (".") as it appears at the end of said paragraph and by inserting in lieu thereof the following phrase:

"; whether as an employee of the State, the Department of Education, a school district, or an individual school, or as an employee of a private organization providing educational services to Delaware school children under a contract with the State, the Department of Education, a school district, or an individual school."

Approved June 30, 2003

CHAPTER 76

FORMERLY

SENATE BILL NO. 74

AN ACT TO AMEND TITLES 14 AND 16 OF THE DELAWARE CODE RELATING TO CHILDHOOD LEAD POISONING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :

Section 1. Amend §2603, Title 16 of the Delaware Code by inserting the following after the word "enrollment" in the first sentence thereof: "; except in the case of enrollment in kindergarten, such testing may be done within 60 calendar days of the date of enrollment".

Section 2. Amend §131, Title 14 of the Delaware Code by deleting subsection (b) thereof in its entirety and by redesignating the existing subsection (c) therein as subsection (b).

Approved June 30, 2003

**District of Columbia**

LexisNexis Academic

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\*\*\* Current through December 13, 2013 and through D.C. Act 20-210 (except D.C. Acts 20-130, 20-157, and 20-204) \*\*\*

DIVISION VI. EDUCATION, LIBRARIES, AND PUBLIC INSTITUTIONS  
TITLE 38. EDUCATIONAL INSTITUTIONS  
SUBTITLE I. PUBLIC EDUCATION -- PRIMARY AND SECONDARY  
CHAPTER 5. IMMUNIZATION OF SCHOOL STUDENTS

[GO TO DISTRICT OF COLUMBIA CODE ARCHIVE DIRECTORY](#)

**D.C. Code § 38-506 (2014)**

**§ 38-506. Exemption from certification**

No certification of immunization shall be required for the admission to a school of a student:

(1) For whom the responsible person objects in good faith and in writing, to the chief official of the school, that **immunization would violate his or her religious beliefs**; or

(2) For whom the school has written certification by a private physician, his or her representative, or the public health authorities that **immunization is medically inadvisable**.

**HISTORY:** Sept. 28, 1979, D.C. Law 3-20, § 7, 26 DCR 380.

1979 Act 3-64 section 7 (Approved July 12, 1979)

District of Columbia Register

JUL 27 1979

AN ACT

3-64

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To immunize all students who are incompletely immunized against the preventable childhood diseases, and to establish a continuing system by which all students will be fully immunized at the earliest appropriate time.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Immunization of School Students Act of 1979".

Sec. 2. For the purpose of this act:

(a) The term "admit" or the term "admission" means the official enrollment at any level by a school of a student that entitles the student to attend the school regularly, whether full-time or part-time, and to participate fully in all the activities established for a student of his or her age, educational level, or other appropriate classification.

(b) The term "certification of immunization" means written certification by a private physician, his or her representative, or the public health authorities that the student is immunized.

-2-

(c) The term "student" means any person who seeks admission to school, or for whom admission to school is sought by a parent or guardian, and who will not have attained the age of twenty-six (26) years by the start of the school term for which admission is sought.

(d) The term "immunized" or the term "immunization" means initial immunization and any boosters or reimmunization required to maintain immunization against diphtheria, poliomyelitis, tetanus, rubella, measles, and mumps in accordance with the immunization standards issued by the public health authorities pursuant to this act.

(e) The term "Mayor" means the Mayor of the District of Columbia.

(f) The term "public health authorities" means the official or officials of the Executive Branch of the government of the District of Columbia designated by the Mayor pursuant to this act.

(g) The term "responsible person" means, in the case of a student under eighteen (18) years of age, a parent or guardian of the student, but in the case of a student eighteen (18) years of age or older, the student himself or herself.

(h) The term "school" means (1) any public school through the twelfth (12th) grade operated under the

District of Columbia Register

JUL 27 1979

-3-

authority of the Board of Education of the District of Columbia; (2) any private or parochial school that offers instruction at any level or grade from kindergarten through twelfth (12th); (3) any private or parochial nursery school or preschool, or any private or parochial day-care facility required to be licensed by the District of Columbia; and (4) any college or university created or incorporated by special act of Congress or the Council of the District of Columbia or required to be licensed by the District of Columbia.

Sec. 3. No student shall be admitted by a school unless the school has certification of immunization for that student, or unless the student is exempted pursuant to section 7.

Sec. 4. The Mayor shall, by regulations, specify the immunization standards to be used for compliance with this act, and may also, by regulation, revise the list of requested immunizations.

Sec. 5. With respect to any student for whom a school does not have certification of immunization, the school shall notify a responsible person (a) that it has no certification of immunization for the student; (b) that it may not admit the student without certification (unless the student is exempted on medical or religious grounds pursuant to section 7 of this act); (c) that the student may be

-4-

immunized and receive certification by a private physician or the public health authorities; and (d) how to contact the public health authorities to learn where and when they perform these services. Neither the District of Columbia nor any school or school official shall be liable in damages to any person for failure to comply with this section.

Sec. 6. A school shall permit a student to attend for not more than ten (10) days while the school does not have certification of immunization for that student. If immunization requires a series of treatments that can not be completed within the ten (10) days, the student shall be permitted to attend school while the treatments are continuing if, within the ten (10) days, the school receives written notification from whomever is administering it that the immunization is in progress.

Sec. 7. No certification of immunization shall be required for the admission to a school of a student (a) for whom the responsible person objects in good faith and in writing, to the chief official of the school, that immunization would violate his or her religious beliefs; or (b) for whom the school has written certification by a private physician, his or her representative, or the public health authorities that immunization is medically inadvisable.

-5-

Sec. 8. In order to implement the requirements of this act efficiently, the public health authorities may develop a plan under which immunization may be made available to students according to groups defined alphabetically, geographically, or by age or grade or otherwise, and upon application of the public health authorities or the Superintendent of Schools, the Mayor may suspend for no longer than one (1) year the application of this act to those groups of students to whom immunization under such a plan will not be made available soon enough to avoid barring them from admission to school.

Sec. 9. The Regulation Requiring Immunization of School Children, enacted May 5, 1972 (Regulation 72-9), as amended by the Regulation Amending Regulation 72-9 Regarding Immunization of School Children, enacted May 11, 1973 (Regulation 73-11), is hereby repealed.

Sec. 10. If any provision of this act or its application to any person or circumstance is held to be invalid, the remaining provisions and other applications shall not be affected.

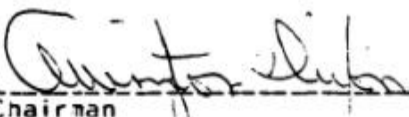


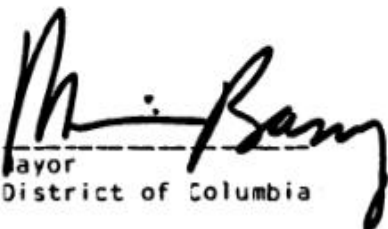
District of Columbia Register

JUL 27 1979

-6-

Sec. 11. This act shall be take effect as provided for  
acts of the Council of the District of Columbia in section  
502(c)(1) of the District of Columbia Self-Government and  
Governmental Reorganization Act.

  
Chairman  
Council of the District of Columbia

  
Mayor  
District of Columbia

APPROVED: July 12, 1979

Introduced as Bill No. 3-66 on January 23, 1979  
by Chairman Dixon at the request of the Mayor

FIRST READING: Adopted by majority voice vote;  
all members present.  
May 22, 1979

FINAL READING: Adopted by unanimous voice vote;  
Dixon, Kane, Wilson, and  
Spaulding absent.

TRANSMITTED TO THE MAYOR: July 2, 1979

Florida  
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\*\*\* Statutes and Constitution are updated through the 2013 Regular Session.\*\*\*

\*\*\* Annotations are current through February 7, 2014 \*\*\*

TITLE 48. K-20 EDUCATION CODE (Chs. 1000-1013)  
CHAPTER 1003. PUBLIC K-12 EDUCATION  
PART II. SCHOOL ATTENDANCE

GO TO FLORIDA STATUTES ARCHIVE DIRECTORY

Fla. Stat. § 1003.22 (2013)

§ 1003.22. School-entry health examinations; immunization against communicable diseases; exemptions; duties of Department of Health

(1) Each district school board and the governing authority of each private school shall require that each child who is entitled to admittance to kindergarten, or is entitled to any other initial entrance into a public or private school in this state, present a certification of a school-entry health examination performed within 1 year before enrollment in school. Each district school board, and the governing authority of each private school, may establish a policy that permits a student up to 30 school days to present a certification of a school-entry health examination. Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, shall be given a temporary exemption for 30 school days. Any district school board that establishes such a policy shall include provisions in its local school health services plan to assist students in obtaining the health examinations. However, a child shall be exempted from the requirement of a health examination upon written request of the parent of the child stating objections to the examination on religious grounds.

(2) The State Board of Education, subject to the concurrence of the Department of Health, shall adopt rules to govern medical examinations and immunizations performed under this section.

(3) The Department of Health may adopt rules necessary to administer and enforce this section. The Department of Health, after consultation with the Department of Education, shall adopt rules governing the immunization of children against, the testing for, and the control of preventable communicable diseases. The rules must include procedures for exempting a child from immunization requirements. Immunizations shall be required for poliomyelitis, diphtheria, rubeola, rubella, pertussis, mumps, tetanus, and other communicable diseases as determined by rules of the Department of Health. The manner and frequency of administration of the immunization or testing shall conform to recognized standards of medical practice. The Department of Health shall supervise and secure the enforcement of the required immunization. Immunizations required by this section shall be available at no cost from the county health departments.

(4) Each district school board and the governing authority of each private school shall establish and enforce as policy that, prior to admittance to or attendance in a public or private school, grades kindergarten through 12, or any other initial entrance into a Florida public or private school, each child present or have on file with the school a certification of immunization for the prevention of those communicable diseases for which immunization is required by the Department of Health and further shall provide for appropriate screening of its students for scoliosis at the proper age. Such certification shall be made on forms approved and provided by the Department of Health and shall become a part of each student's permanent record, to be transferred when the student transfers, is promoted, or changes schools. The transfer of such immunization certification by Florida public schools shall be accomplished using the Florida Automated System for Transferring Education Records and shall be deemed to meet the requirements of this section.

(5) The provisions of this section shall not apply if:

(a) The parent of the child objects in writing that the administration of immunizing agents conflicts with his or her religious tenets or practices;

(b) A physician licensed under the provisions of chapter 458 or chapter 459 certifies in writing, on a form approved and provided by the Department of Health, that the child should be permanently exempt from the required immunization for medical reasons stated in writing, based upon valid clinical reasoning or evidence, demonstrating the need for the permanent exemption;

(c) A physician licensed under the provisions of chapter 458, chapter 459, or chapter 460 certifies in writing, on a form approved and provided by the Department of Health, that the child has received as many immunizations as are medically indicated at the time and is in the process of completing necessary immunizations;

(d) The Department of Health determines that, according to recognized standards of medical practice, any required immunization is unnecessary or hazardous; or

(e) An authorized school official issues a temporary exemption, for up to 30 school days, to permit a student who transfers into a new county to attend class until his or her records can be obtained. Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, shall be given a temporary exemption for 30 school days. The public school health nurse or authorized private school official is responsible for followup of each such student until proper documentation or immunizations are obtained. An exemption for 30 days may be issued for a student who enters a juvenile justice program to permit the student to attend class until his or her records can be obtained or until the immunizations can be obtained. An authorized juvenile justice official is responsible for followup of each student who enters a juvenile justice program until proper documentation or immunizations are obtained.

(6) (a) No person licensed by this state as a physician or nurse shall be liable for any injury caused by his or her action or failure to act in the administration of a vaccine or other immunizing agent pursuant to the provisions of this section if the person acts as a reasonably prudent person with similar professional training would have acted under the same or similar circumstances.

(b) No member of a district school board, or any of its employees, or member of a governing board of a private school, or any of its employees, shall be liable for any injury caused by the administration of a vaccine to any student who is required to be so immunized or for a failure to diagnose scoliosis pursuant to the provisions of this section.

(7) The parents of any child admitted to or in attendance at a Florida public or private school, grades prekindergarten through 12, are responsible for assuring that the child is in compliance with the provisions of this section.

(8) Each public school, including public kindergarten, and each private school, including private kindergarten, shall be required to provide to the county health department director or administrator annual reports of compliance with the provisions of this section. Reports shall be completed on forms provided by the Department of Health for each kindergarten, and other grade as specified; and the reports shall include the status of children who were admitted at the beginning of the school year. After consultation with the Department of Education, the Department of Health shall establish by administrative rule the dates for submission of these reports, the grades for which the reports shall be required, and the forms to be used.

(9) The presence of any of the communicable diseases for which immunization is required by the Department of Health in a Florida public or private school shall permit the county health department director or administrator or the State Health Officer to declare a communicable disease emergency. The declaration of such emergency shall mandate that all students in attendance in the school who are not in compliance with the provisions of this section be identified by the district school board or by the governing authority of the private school; and the school health and immunization records of such children shall be made available to the county health department director or administrator. Those children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from school by the district school board, or the governing authority of the private school, until such time as is specified by the county health department director or administrator.

(10) Each district school board and the governing authority of each private school shall:

(a) Refuse admittance to any child otherwise entitled to admittance to kindergarten, or any other initial entrance into a Florida public or private school, who is not in compliance with the provisions of subsection (4).

(b) Temporarily exclude from attendance any student who is not in compliance with the provisions of subsection (4).

(11) The provisions of this section do not apply to those persons admitted to or attending adult education classes unless the adult students are under 21 years of age.

**HISTORY:** S. 117, ch. 2002-387; s. 38, ch. 2004-41; s. 6, ch. 2009-35, eff. July 1, 2009; s. 8, ch. 2009-164, eff. July 1, 2009.

Florida previous immunization exemption statute 232.032

**232.032 History.**--ss. 1, 2, 3, ch. 71-283; s. 39, ch. 77-147; s. 10, ch. 79-288; s. 1, ch. 80-79; s. 5, ch. 81-283; s. 97, ch. 83-217; s. 4, ch. 86-220; s. 31, ch. 91-105; s. 1, ch. 94-320; s. 1540, ch. 95-147; s. 25, ch. 97-101; s. 22, ch. 97-190; s. 14, ch. 97-237.

232.032 (as amended by ch. 79-288, Laws of Florida, effective July 1, 1980).

CHAPTER 79-288

LAWS OF FLORIDA

CHAPTER 79-288

CHAPTER 79-288

Committee Substitute for House Bill No. 1036

An act relating to education; creating s. 230.2312, Florida Statutes, providing for the Florida Primary Education Program or an approved alternative; establishing preventative, enrichment, and developmental individual and instructional strategies; providing for educational and health screening and assessment of students; providing dismissal criteria; providing for primary specialists and staff development programs; providing a procedure for funding of the program; authorizing the use of funds for parent involvement; providing for reporting; providing for district plans for primary education programs; creating the Primary Education Council; adding a new paragraph (d) to s. 229.565(2), Florida Statutes, 1978 Supplement, to require evaluation of the program; amending s. 230.2311(5), Florida Statutes, to provide for school board consultation with teacher education centers in developing certain inservice training programs; amending s. 236.013(2)(c), Florida Statutes, to allow membership for students receiving preventative instructional strategies for more than 180 school days; amending s. 237.34(3)(a) and (b), Florida Statutes, 1978 Supplement, revising expenditure requirements for kindergarten through grade 3 programs; authorizing the expenditure of specified funds for inservice training; amending s. 228.051(1), Florida Statutes; deleting obsolete language; amending s. 232.01, Florida Statutes; providing ages for compulsory school attendance; prohibiting the admission or promotion to the first grade until kindergarten is satisfactorily completed; establishing conditions relating to the entry age for first grade; deleting provision that makes certain exceptional children eligible for certain services; amending s. 232.03, Florida Statutes; requiring evidence of date of birth before admission to kindergarten; amending s. 232.032(2), Florida Statutes; requiring each district school board and the governing authority of each nonpublic school to require each child who is entitled to admittance to kindergarten to present a certificate of immunization against communicable diseases; amending s. 232.04, Florida Statutes; establishing the entry age for kindergartens; allowing early entry based on readiness criteria established by each district school board; authorizing district school boards to require each child to satisfactorily complete kindergarten as a condition of admission or promotion to the first grade prior to July 1, 1982; repealing s. 232.031, Florida Statutes; relating to the health certificate requirement for admission to kindergarten or first grade; repealing ss. 232.06(2) and 232.09(5), Florida Statutes; relating to the issuance of a distance exemption excusing compulsory school attendance; amending s. 233.057, Florida Statutes; providing for reading resource specialists; amending s. 402.32, Florida Statutes, 1978 Supplement; deleting restriction of certain school health services to indigent children; requiring parent



reports; protecting from liability under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 230.2312, Florida Statutes, is created to read:

230.2312 Florida Primary Education Program; objectives and outcomes.--

(1) It is the finding of the Legislature that a comprehensive prescriptive program of primary education, kindergarten through grade 3, is needed in order to improve the results of public education in Florida in all grades in years to come. The Legislature therefore declares this intent to require the Department of Education and each district school board to implement such a program for kindergarten through grade 3. It is the intent of the Legislature that the program shall be a comprehensive improvement of public education in kindergarten through grade 3 and shall provide appropriate education opportunities for students in the critical early years that more fully meet the unique needs, talents, interests, and abilities of each student. It is further the intent of the Legislature that the program shall include an appropriate level of educational services so that the probability of success in future educational experiences will be improved. No part of this act is intended to require or imply a requirement affecting the individual district's decisions to group, mix or otherwise assemble students for the purpose of instruction.

(2) The objectives of the Florida Primary Education Program shall include assurance that each student shall have an individualized program to permit the development to his maximum potential and that all students who have completed the third grade of the public educational system shall have achieved a level of competence in the basic skills, as required by s. 229.565, sufficient for increased success in their educational experiences throughout life. The program shall be designed to build upon the early childhood and basic skills development program required by s. 230.2311, with emphasis upon expanding the services for kindergarten through grade 3 students so that existing and potential learning problems are identified and individual needs are met prior to the intermediate grades, thereby developing the basic framework for continued progress of the student, commensurate with his ability, with a reduced risk of failure and less remediation in intermediate and secondary years. The program, or an approved alternative, which shall provide for an increase in the number of teachers and other instructional personnel in the primary classroom, kindergarten, and grades 1 through 3, shall be the kindergarten through grade 3 basic program within the Florida Education Finance Program as defined in chapter 236.

Section 2. Florida Primary Education Program; model.--

(1) DEFINITIONS.--For purposes of this section:

(a) "Program" means the Florida Primary Education Program.

(b) "Preventative Strategies" means the use of those instructional strategies which shall serve a student with identified or potential learning problems which are considered correctable.



(1) A duly attested transcript of the child's birth record filed according to law with a public officer charged with the duty of recording births; or

(2) A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the child, accompanied by an affidavit sworn to by the parent; or

(3) An insurance policy on the child's life which has been in force for at least 2 years; or

(4) A bona fide contemporary Bible record of the child's birth accompanied by an affidavit sworn to by the parent; or

(5) A passport or certificate of arrival in the United States showing the age of the child; or

(6) A transcript of record of age shown in the child's school record of at least 4 years prior to application, stating date of birth; or

(7) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if neither of these shall be available in the county, by a licensed practicing physician designated by the school board, which certificate shall state that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct.

Section 10. Subsection (2) of section 232.032, Florida Statutes, is amended to read:

232.032 Immunization against communicable diseases; school attendance requirements; exemptions.--

(2) The school board of each district and the governing authority of each ~~nonpublic private~~ school shall require each ~~child pupil~~ who is ~~otherwise~~ entitled to admittance to kindergarten or ~~first-grade~~, ~~whichever-is-applicable~~, or any other initial entrance into a Florida public or ~~nonpublic private~~ school, to present a certification of immunization for the prevention of those communicable diseases for which immunization is required by the Department of Health and Rehabilitative Services.

Section 11. Section 232.04, Florida Statutes, is amended to read:

232.04 In kindergartens.--Children who will have attained the age of 5 years on or before the date prescribed herein ~~January 1~~ of the school year shall be eligible for admission to public kindergartens during that school year under rules and ~~regulations~~ prescribed by the school board. For the school year 1980, the child must have attained the age of 5 on or before December 1, 1980. For the school year 1981, the child must have attained the age of 5 on or before November 1, 1981. For the school year 1982, the child must have attained the age of 5 on or before October 1, 1982. For the school year 1983 and thereafter, the child must have attained the age of 5 on or before September 1 of the school year. Any child who will attain the age of 5 years subsequent to the date prescribed herein but prior to January 1 of the school year shall be admitted at the beginning of that school year or at any time during the first month of the school year

(b) To cooperate with the Department of Health and Rehabilitative Services in the provision of health services to children.

(c) To provide physical facilities at each school for the health services program.

(d) To provide inservice health training for school personnel.

(e) To cooperate with public health personnel in counseling students pupils and parents in matters regarding health programs and practices.

(f) To examine each public school child, at the proper age, for scoliosis.

(6) Nonpublic schools may request to participate in the school health services program. Nonpublic schools voluntarily participating in the school health services program shall comply with paragraphs (b)-(e) of subsection (5).

(7) At the beginning of each school year, parents or guardians will be requested to provide their written permission for medical or physical examination, screening, and treatment. Any child shall be exempt from medical or physical examination, screening, and treatment if his parent or guardian does not provide such permission. However, the laws, rules, and regulations relating to contagious or communicable diseases and sanitary matters shall not be violated.

(8) School health services shall be implemented in annual increments so that all children will be served by 1979. Expenditures for school health services shall be accounted for by county in accordance with standards established by the Department of Health and Rehabilitative Services or as provided for by law. ~~Implementation shall commence January 1, 1975, upon completion of the plan required by s. 8, ch. 74-356. There is hereby designated from the moneys appropriated to the Department of Health and Rehabilitative Services for the fiscal year 1974-1975 the amount of \$50,000 for planning and evaluation for the purpose of carrying out this section.~~

(9) In the absence of negligence, no person shall be liable for any injury caused by an act or omission in the administration of school health services.

Section 16. This act shall take effect July 1, 1979, except that sections 7, 8, 9, 10, 11, 12, and 13 shall take effect July 1, 1980.

Approved by the Governor June 29, 1979.

Filed in Office Secretary of State July 3, 1979.

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CHAPTER 79-289

House Bill No. 1063

An act relating to unfair insurance trade practices; amending s. 626.9541, Florida Statutes, 1978 Supplement, and s. 626.9551(2), Florida Statutes, deleting the requirement that certain unfair methods of competition and unfair or deceptive acts or practices

1981 81-283 S 5 (APPROVED &amp; effective July 2, 1981)

CHAPTER 81-283

LAWS OF FLORIDA

CHAPTER 81-283

CHAPTER 81-283

Committee Substitute for House Bill No. 559

An act relating to the Department of Health and Rehabilitative Services; creating ss. 458.346, 459.0211, 460.416, Florida Statutes; requiring applicants for licensure or renewal of licensure as a physician, osteopath, or chiropractor to provide information on Medicare assignment; requiring the Department of Professional Regulation in cooperation with the Department of Health and Rehabilitative Services to prepare lists of licensed practitioners who accept Medicare assignment; requiring adoption of rules; amending s. 232.032, Florida Statutes, 1980 Supplement; modifying the list of communicable diseases for which immunizations are required; providing for immunization by local county health units; requiring certification of immunization on forms provided by the Department of Health and Rehabilitative Services; providing for scoliosis screening in nonpublic schools; providing for permanent records; modifying exemptions from immunization; exempting school authorities and employees from certain liability; providing responsibility of parents; requiring annual reports to the county health unit; authorizing declaration of a communicable disease emergency, under certain conditions; providing for temporary exclusion of nonimmunized children from school during such emergency; authorizing schools to refuse admittance or attendance without certification of immunization, according to a schedule provided in the act; exempting adult education classes; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 458.346, Florida Statutes, is created to read:

458.346 Medicare assignment.--The department shall require from each person applying for licensure or renewal of licensure under this chapter a response to the question of whether or not the physician will accept Medicare assignment for services to patients eligible for Medicare reimbursement. In cooperation with the Department of Health and Rehabilitative Services, the department shall provide to the Department of Health and Rehabilitative Services district offices a list of all persons licensed under this chapter in the respective district who will accept Medicare assignment. Each district office shall make such information available to the public upon request.

Section 2. Section 459.0211, Florida Statutes, is created to read:

459.0211 Medicare assignment.--The department shall require from each person applying for licensure or renewal of licensure under this chapter a response to the question of whether or not the osteopathic physician will accept Medicare assignment for services to patients eligible for Medicare reimbursement. In cooperation with the Department of Health and Rehabilitative Services, the department shall provide to the Department of Health and Rehabilitative Services district offices a list of all persons licensed under this chapter in the respective district who will accept Medicare assignment. Each

district office shall make such information available to the public upon request.

Section 3. Section 460.416, Florida Statutes, is created to read:

460.416 Medicare assignment.--The department shall require from each person applying for licensure or renewal of licensure under this chapter a response to the question of whether or not the chiropractic physician will accept Medicare assignment for services to patients eligible for Medicare reimbursement. In cooperation with the Department of Health and Rehabilitative Services, the department shall provide to the Department of Health and Rehabilitative Services district offices a list of all persons licensed under this chapter in the respective district who will accept Medicare assignment. Each district office shall make such information available to the public upon request.

Section 4. After consultation with the Department of Professional Regulation, the Department of Health and Rehabilitative Services shall adopt such rules as are necessary to implement this act.

Section 5. Section 232.032, Florida Statutes, 1980 Supplement, is amended to read:

232.032 Immunization against communicable diseases; school attendance requirements; exemptions.--

(1) The Department of Health and Rehabilitative Services, after consultation with the Department of Education, shall promulgate rules ~~and regulations~~ governing the immunization of children against, ~~or the testing for, and the control of~~ preventable communicable diseases. Immunizations shall be required for poliomyelitis, ~~measles~~, diphtheria, rubella, rubella, pertussis, ~~mumps~~, and tetanus, and may be required for other communicable diseases as determined by rules of the Department of Health and Rehabilitative Services. The manner and frequency of administration of the immunization or testing shall conform to recognized standards of medical practice. The Department of Health and Rehabilitative Services shall supervise and secure the enforcement of the required immunization. Immunizations required by this act shall be available at no cost from the local county health units.

(2) The school board of each district and the governing authority of each nonpublic school shall establish and enforce as policy that prior to admittance or attendance in a public or nonpublic school, grades kindergarten through 12, or public preschool each child shall present or have on file with said school ~~require each child who is entitled to admittance to kindergarten; or any other initial entrance into a Florida public or nonpublic school; to present a certification of immunization for the prevention of those communicable diseases for which immunization is required by the Department of Health and Rehabilitative Services and further shall provide for appropriate screening of its pupils for scoliosis at the proper age. Such certification is to be made on forms approved and provided by the Department of Health and Rehabilitative Services and becomes a part of each student's permanent record and is to be transferred when a student transfers, is promoted or changes schools.~~

(3) The provisions of this section shall not apply if:

(a) The parent or guardian of the child objects in writing that the administration of immunizing agents conflicts with his religious tenets or practices; or

(b) A physician licensed under the provisions of chapter 458 or chapter 459 or chapter 460 ~~competent medical authority~~ certifies in writing on forms approved and provided by the Department of Health and Rehabilitative Services that the child should be exempt from the required immunization for medical reasons stated in writing, based upon valid clinical reasoning or evidence, demonstrating the need for the exemption at that time; or

(c) The Department of Health and Rehabilitative Services determines that according to recognized standards of medical practice, any required immunization is unnecessary or hazardous; or

(d) An authorized school official issues a temporary exemption not to exceed 30 school days permitting a child who transfers into a new county to attend class until his/her records can be obtained. The public school health nurse or authorized nonpublic school official shall be responsible for follow-up of these children until proper documentation and/or immunizations are obtained.

(4)(a) No person licensed by this state as a physician or nurse shall be liable for any injury caused by his action or failure to act in the administration of a vaccine or other immunizing agent pursuant to the provisions of this section if the person acts as a reasonably prudent person with similar professional training would have acted under the same or similar circumstances.

(b) No member of a school board, or its employees, or member of a governing board of a nonpublic school, or its employees, shall be liable for any injury caused by the administration of a vaccine to any student who is required to be so immunized or for the failure to diagnose scoliosis pursuant to the provisions of this section.

(5) The parents or guardians of any child admitted to or in attendance at a Florida public or nonpublic school, grades kindergarten through 12, or public preschool are responsible for assuring that their child is in compliance with the provisions of this section.

(6) Each public and nonpublic school or kindergarten or public preschool shall be required to provide to the county health unit director annual reports of compliance with the provisions of this section. Reports shall be completed on forms provided by the Department of Health and Rehabilitative Services for each public preschool, kindergarten, first grade, and other grades as specified and shall include the status of children who were admitted at the beginning of the school year. After consultation with the Department of Education, the Department of Health and Rehabilitative Services shall establish by administrative rule the dates for submission of said reports, the grades for which reports shall be required, and the forms to be used.

(7) The presence of any of those communicable diseases for which immunization is required by the Department of Health and Rehabilitative Services in a Florida public or nonpublic school shall permit the county health director or the Health Program Office staff director to declare a communicable disease emergency. The declaration of said emergency shall mandate that all children in

attendance in the school who are not in compliance with the provisions of this section shall be identified by the school board of each district, or the governing authority of each nonpublic school, and the school health and immunization records of such children shall be made available to the county health director. These children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from school by the school board of each district, or the governing authority, until such time as specified by the county health unit director.

(8) The school board of each district and the governing authority of each private school shall:

(a) Effective upon the effective date of this act, refuse admittance to any child otherwise entitled to admittance to kindergarten, or any other initial entrance into a Florida public or nonpublic school, who is not in compliance with the provisions of subsection (2).

(b) Effective August 1, 1982, temporarily exclude from attendance any student who is not in compliance with the provisions of subsection (2).

(9) The provisions of this section do not apply to those persons admitted to or attending adult education classes.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor July 2, 1981.

Filed in Office Secretary of State July 2, 1981.

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CHAPTER 81-284

House Bill No. 607

An act relating to tax collections; amending s. 195.106(1)(a) and (5), Florida Statutes; providing for refunds of certain erroneous tax payments; correcting a cross reference; amending s. 197.241(2) and (3), Florida Statutes, 1980 Supplement, relating to application for tax deed by certificate holders; specifying that the opening bid for homestead property by certificate holders other than the county shall include an amount equal to one-half the assessed value of the property; specifying time limitation with respect to said requirement for all certificate holders; providing right of titleholder to redeem homestead property prior to issuance of a tax deed; amending s. 197.256, Florida Statutes, 1980 Supplement; providing requirements with respect to notice to owner of application for a tax deed; specifying that inability to serve notice shall not affect validity of tax deed; providing that posting of notice is not required for certain property; amending ss. 197.151(2) and 197.156(1), Florida Statutes, 1980 Supplement, removing reference to personal service of notice; amending s. 197.291(1) and (2), Florida Statutes; providing for interest on certain sums paid to a

1983 83-217 s 97 (filed June 24, 1983)

CHAPTER 83-216

LAWS OF FLORIDA

CHAPTER 83-216

(1) The Bureau of Crimes Compensation of the division of Workers' Compensation of the Department of Labor and Employment Security shall pay for medical expenses connected with an initial physical examination of any victim who reports a violation of chapter 794 to a law enforcement officer, unless such victim is covered by health or disability insurance. In the event that the insurance company does not cover the full amount, the bureau shall provide the balance up to a maximum of \$150. The payment shall be made only out of moneys allocated to the bureau of Crimes Compensation for the purposes of this section, and the payment shall not exceed \$150 with respect to any violation. No payment shall be made for any physical examination unless the law enforcement officer certifies in writing that, based upon his investigation and the results of the physical examination by a physician or other medically trained personnel qualified under chapter 464, excluding s. 464.003(5); chapter 458; or and chapter 459, he reasonably believes that an offense under chapter 794 has been committed and that the claimant is the victim of such offense. Further, the payment shall not be made to the victim if the victim has not paid the bill rendered by the medical provider; and said payment, in such event, may be made directly to the medical provider. Further, any payment for medical expenses under this section is contingent upon the victim's agreement to bring charges of a violation of chapter 794 and to appear as a witness at any prosecution of such violation.

(2) The bureau of Crimes Compensation shall have the authority to allow, deny, controvert, or and litigate claims made against it pursuant to this section.

Note.--Amended to remove redundancy, improve clarity, and facilitate correct interpretation. See s. 960.03(2), which defines "division" as used in chapter 960 to mean the Division of Workers' Compensation of the Department of Labor and Employment Security.

Became a law without the Governor's approval.

Filed in Office Secretary of State June 24, 1983.

## CHAPTER 83-217

Senate Bill No. 873

An act relating to the Florida Statutes; amending ss. 7.64, 13.01(2), 18.09(1)(b), 23.1225(2), 27.37(6)(b), 28.101, 39.41(3)(c), 72.011(4)(a), 83.57, 100.361(1)(a), 101.251(3), 101.35(2), (6), 101.56, 101.5612(1), 106.025(1)(a), 106.15(2), 111.012(2)(b), 112.05(2)(e), 120.53(5)(a), 121.052(1)(g), 121.101(1), (3), (4), 154.238, 154.41(2), 159.414, 159.494, 175.351(10), 177.031(10), 177.36, 190.012(3)(b), 192.091(2)(c), (4), 196.121(2), 201.132(2), 206.445, 206.945, 207.002(8), 207.004(1), (2), (5)(a), (b), 207.005(1), 207.023, 213.22(1), 215.37(2), 215.65(1), 215.84(2)(b), (7), 216.121, 218.31(1), 230.2317(4), 232.032(3)(d), (6), 234.01, 234.211(2)(a), 235.222, 235.34(1), 235.42(3), 236.091(1)(g), (4), (5), (6)(b), 238.171(3)(c), 240.319(3)(t), 240.343(2), 240.355, 240.405(1), (2), 242.331(1), (4), (5)(c), (e), 253.12(4), 253.55(3),

## 231.29 Record of personnel.--

(3) The assessment procedure shall comply with ~~include~~, but shall not be limited to, the following requirements:

(a) An assessment Assessments for each employee shall be made at least once a year.

(b) All personnel shall be fully informed of the criteria and procedures associated with the assessment process before the assessment takes place.

(c) A written report of each assessment shall be made and a copy thereof shall be given to the employee no later than 10 days after the assessment takes place. The written report of assessment shall be discussed with the employee by the person responsible for preparing the report with the employee. The employee shall have the right to initiate a written response to the assessment, and the response shall become a permanent attachment to his personnel file.

(d) In the event that an employee is not performing his duties in a satisfactory manner, the evaluator shall notify the employee in writing of such a determination and describe such unsatisfactory performance. The evaluator shall thereafter confer with the employee, and make recommendations with respect as to specific areas of unsatisfactory performance, and provide assistance in helping to correct such deficiencies within a reasonable, prescribed period of time.

Note.--Amended to improve grammatical construction for clarity.

Section 97. Paragraph (d) of subsection (3) and subsection (6) of section 232.032, Florida Statutes, are amended to read:

232.032 Immunization against communicable diseases; school attendance requirements; exemptions.--

(3) The provisions of this section shall not apply if:

(d) An authorized school official issues a temporary exemption, for a period not to exceed 30 school days, to permit a child who transfers into a new county to attend class until his records can be obtained. The public school health nurse or authorized nonpublic school official is responsible for follow-up of each such child until proper documentation or immunizations are obtained.

(6) Each public school or kindergarten, each nonpublic school or kindergarten, and ~~or~~ each public preschool shall be required to provide to the county health unit director annual reports of compliance with the provisions of this section. Reports shall be completed on forms provided by the Department of Health and Rehabilitative Services for each public preschool, kindergarten, first grade, and other grade as specified; and the reports shall include the status of children who were admitted at the beginning of the school year. After consultation with the Department of Education, the Department of Health and Rehabilitative Services shall establish by administrative rule the dates for submission of these reports, the grades for which the reports shall be required, and the forms to be used.



Note.--Amended to improve clarity.

Section 98. Section 232.277, Florida Statutes (1982 Supplement), is amended to read:

232.277 Reports of suspected drug abuse; exemption from liability.--All school personnel shall be exempt from civil liability when reporting in good faith to the proper school authority suspected unlawful uses, possessions, or sales of drugs by students to the proper school authority. Only a the principal or his his/her designee shall contact a the parent or legal guardian of a student regarding this situation.

Note.--Amended to improve clarity and facilitate correct interpretation.

Section 99. Subsection (3) of section 233.0671, Florida Statutes (1982 Supplement), is amended to read:

233.0671 Courses of study in care of nursing home patients.--

(3) The universities, the boards of trustees of community colleges, and the district school boards are authorized to enter into contracts or written agreements with nursing home facilities ~~rated~~ for the purpose of providing facilities for instruction in the certification course for nursing assistants in nursing homes.

Note.--Amended to remove word inadvertently retained in the preparation of C.S. for S.B. 705 (1982), which became ch. 82-163, Laws of Florida, and which deleted the remainder of the provision relating to the rating of nursing homes.

Section 100. Section 234.01, Florida Statutes, as amended by section 1, chapter 81-254, Laws of Florida, is amended to read:

234.01 Purpose.--School boards, after considering recommendations of the superintendent, shall provide transportation for each pupil who should attend a public school when, and only when, transportation is necessary to provide adequate educational facilities and opportunities which otherwise would not be available and to transport pupils whose homes are more than a reasonable walking distance, as defined by regulations of the state board, from the nearest appropriate school. No state funds shall be paid for the transportation of pupils whose homes are within 2 miles from the nearest appropriate school, except that, with respect to elementary school pupils whose grade level does not exceed ~~not exceeding~~ grade 6, if such pupils are subjected to hazardous walking conditions as provided in s. 234.021 while en route to or from school, state funds shall be paid for the transportation of such pupils, the 2-mile limit notwithstanding, until such conditions are corrected. In each case in which transportation of pupils in the opinion of the school board is impracticable, the school board is authorized to take steps for making available educational facilities as are authorized by law and as, in the opinion of the school board, are practical.

Note.--Amended to improve clarity.

Section 101. Paragraph (a) of subsection (2) of section 234.211, Florida Statutes, is amended to read:

234.211 Use of school buses for public purposes.--

Became a law without the Governor's approval.

Filed in Office Secretary of State June 24, 1983.

# CHAPTER 83-218

## Senate Bill No. 924

An act relating to the Florida Statutes; amending ss. 316.635(3)(c), 316.645, 316.655(4), 320.0897(3), 322.01(19), 322.201, 328.03(1), 364.01(2), 372.025(3), 372.072(6), 372.073(1), 372.57(4)(f), 372.921(5), 372.932(4), (5), (9), (10), 373.59(2), 381.507(5)(b), 393.065(2)(c), 393.066(6), 393.20(1), 394.435(16), 402.22(2), (4), 403.1834(8), 406.06(1)(a), 413.051(2)(b), 446.091, 446.092(2), 458.322(1), 459.0095(1), 460.4095(1), 484.003(3), 490.007(3), 496.31(12), (13), 496.335(1)(a), (c), 520.125(5), 527.01(2), 527.04(1), 550.023, 550.074(1), and 550.33(1), Florida Statutes, and ss. 316.1932(1)(c), 316.1934(1), 316.302(1)(b), 319.14(2), (5), 319.24(5)(a), (7), 319.27(1), 319.28(1)(b), 319.30(2)(b), 320.05, 320.089(1), 320.10(1)(f), 320.27(4), 322.031(3), 322.20(5), 336.59(2), 337.18(2), 351.009, 367.081(6), 372.574(6), 373.088, 381.272(1)(a), 381.493(3)(h), 381.494(7)(b), (9)(j), 382.51, 395.003(3)(b), 395.011(3), 395.508(1), 401.25(2)(b), (5), 401.255(4), 401.26(2), 403.087(5)(a), 403.7045(3)(d), 403.707(1), (4), 403.722(10), 403.813(2)(b), 404.161(3), 404.30, Art. VII(2), 409.266(2)(c), (3)(d), 409.508(1)(a), (2), 409.602(4), 413.08(1)(a), (4), 420.5094(1), 443.051(3)(e), 455.20, 455.201(1), (3), 455.217(1), 455.241(2), 458.348(1)(b), 458.006(3), 467.012(1), 467.015(3)(b), (4)(b), 467.203(1)(f), 468.1705(1), (2), 475.10, 475.182(1), 475.451(1), 477.022(7), 482.211(1)(b), 482.226(6), 487.091(4), (6), 487.158(1), 499.003, 499.005(7), (10), 499.007(2), (12)(b), 499.01(3)(b), 499.011(4), (5), 499.015(2)-(4), 499.017(4), 499.018(1)(j), (g), 499.02(4), 499.028(2)(a), (4)(a), (e), (f), 499.04, 499.041(3), 499.066(4)(b), 499.069(2), 500.03(1), 500.04(7), 500.174, 500.177(2), 550.03(4), 550.10(3)(b), and 559.925(2), (5), Florida Statutes (1982 Supplement); repealing ss. 373.175(5), 393.069, 395.201, 400.023(2), 400.063(5), 400.126(12), 400.179(5), 400.322, 400.418(2), 400.419(7), 400.422(13), 400.426(2), 400.428(9), 400.429(2), 400.435(4), 400.452(2), 400.454(3), 403.051(2), 403.088(2), (5), 460.4165(13), and 475.1825(2), Florida Statutes; and reenacting ss. 520.125(1)-(4), (7)-(12), Florida Statutes, pursuant to s. 11.242, Florida Statutes; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; revising and correcting cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; correcting errors in the editing, publishing, and printing of the Florida

1986 86-220 s 4 (effective July 1, 1986)

CHAPTER 86-219

LAWS OF FLORIDA

CHAPTER 86-219

consumption--as--human--feed. The department is also authorized to license or certify facilities used for processing oysters, clams, mussels, and crabs, to suspend or revoke such licenses or certificates upon satisfactory evidence of any violation of rules adopted pursuant to this section, and to seize and destroy any adulterated or misbranded shellfish products as defined by rule.

Section 5. Section 6 of chapter 83-134, Laws of Florida, as amended by chapter 84-121, Laws of Florida, is amended to read:

Section 6. Sections 370.07(4), 370.07(1), 370.113, 370.114, 370.13, 370.135, 370.16(14)-(16), 370.16(14)-(17), 370.16(36), 370.17, 370.171, and 370.172, Florida Statutes, shall stand repealed on July 1, 1984. However, if the Governor and Cabinet have not adopted appropriate rules by July 1, 1984, the statutes listed in this section or any subdivision of said statutes for which rules have not been adopted shall remain in force until such rules are effective.

Section 6. Any rule adopted by the Governor and Cabinet before the effective date of this act to implement s. 370.07(4), s. 370.07(1), s. 370.16(17), or s. 370.16(36), Florida Statutes, as a rule of the Marine Fisheries Commission, shall remain in force as a rule of the Department of Natural Resources.

Section 7. (1) No wholesale or retail dealer, as defined in ss. 370.07(1)(a)1. and 370.07(1)(b), Florida Statutes, shall sell any oysters produced outside this state unless they are labeled as such, or unless it is otherwise reasonably made known to the purchaser that the oysters were not produced in this state.

(2) The Department of Natural Resources shall promulgate rules whereby oysters produced in Florida waters can be traced to the location from which they were harvested. A wholesale or retail dealer may not sell any oysters produced in this state unless they are labeled so that they may be traced to the point of harvesting.

Section 8. This act shall take effect October 1, 1986, except that this section and sections 1, 4, 5, and 6 shall take effect upon becoming a law.

Approved by the Governor July 1 1986.

Filed in Office Secretary of State July 1, 1986.

#### CHAPTER 86-220

Committee Substitute for House Bill No. 1313

An act relating to health, welfare, and social services; amending s. 20.19, F.S., providing for reorganization of the department; providing for appointment of a Deputy Secretary for Operations, rather than an Assistant Secretary for Operations; providing responsibilities; providing for an Assistant Secretary for Programs; renaming the Deputy Assistant Secretary for State Health Planning and Development as the Deputy Assistant Secretary for Regulation and Health Planning; providing responsibilities; providing for the appointment of a

Deputy Assistant Secretary for Health; modifying responsibility of the Assistant Secretary for Program Planning with respect to uniform program quality among districts; deleting the restrictions on the number of staff; eliminating the Health Program Office and the Vocational Rehabilitation Program Office; clarifying responsibilities of the Economic Services Program Office, the Developmental Services Program Office, and the Children, Youth, and Families Program Office; specifying responsibility of the Alcohol, Drug Abuse, and Mental Health Program Office for adult forensic programs; providing a limitation on the number of representatives of certain provider groups serving on department advisory councils; eliminating the advisory council to the Health Program Office; providing for periodic review and update of the 5-year state plan for children and youth services; providing responsibility of the Deputy Assistant Secretary for Regulation and Health Planning with respect to certain licensure and certification; designating the Deputy Assistant Secretary for Health as the State Health Officer; providing qualifications; providing responsibilities; providing for appointment of Assistant Health Officers for Public Health and Primary Care, Disease Control, and Interprogram Development and Technical Assistance; providing for appointment of an advisory council for public health and primary care; providing that the Assistant Secretary for Administration shall serve as the chief budget officer of the department; mandating children, youth, and family services programs at the district level; providing that district administrators shall have the same standing as assistant secretaries; removing a restriction on salaries of district administrators; providing that the district manager for administrative services shall be the chief budget officer of the district; revising budget entities; providing for periodic review of budget entity designations and authority to transfer funds between entities; removing a restriction on the authority of the secretary to transfer funds between districts; removing authority of the district administrator to transfer funds between programs within a district; providing for selection of management fellows; providing for consultation with counties with respect to programs which mandate county financial participation; amending ss. 154.02, 154.04, 212.032, 381.272, 381.345, 383.14, 383.144, 403.771, 406.02, and 415.501, F.S., conforming to the reorganization of the department provisions relating to public health unit trust funds; personnel of the public health units; declaration of a communicable disease emergency; the Advisory Review Variance Board for onsite sewage disposal systems; the Diabetes Advisory Council; the Infant Screening Advisory Council; the Council for the Infant Hearing Impairment Program; dissemination of information relating to accidental release of toxic or hazardous substances; the Medical Examiners Commission; and the interprogram task force for the prevention of abuse and neglect of children; amending ss. 381.605, 391.066, 391.068, 394.67, 400.304, 401.245, 410.023, and 410.024, F.S., correcting cross references; amending s. 20.171, F.S., creating the Division of Vocational Rehabilitation within the Department of Labor

(1)

(b) The public health unit director shall be a doctor of medicine or a doctor of osteopathy who is trained in public health administration and shall be appointed by the secretary of the department after consultation with the Deputy Assistant Secretary for Health, the district administrator, director-of-the-Health-Program Office and the concurrence of the boards of county commissioners of the respective counties. If the public health unit does not have a director onsite, a public health unit administrator trained in public health administration may be appointed as designated in paragraph (a). In such cases, the district health program supervisor shall be a doctor of medicine or a doctor of osteopathy and shall be appointed to serve as the public health unit director.

Section 4. Subsection (7) of section 232.032, Florida Statutes, is amended to read:

232.032 Immunization against communicable diseases; school attendance requirements; exemptions.--

(7) The presence of any of the communicable diseases for which immunization is required by the Department of Health and Rehabilitative Services in a Florida public or nonpublic school shall permit the county health director or the Deputy Assistant Secretary for Health, Health--Program--Office--staff--director to declare a communicable disease emergency. The declaration of such emergency shall mandate that all children in attendance in the school who are not in compliance with the provisions of this section be identified by the district school board, or the governing authority of the nonpublic school; and the school health and immunization records of such children shall be made available to the county health director. Those children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from school by the district school board, or the governing authority, until such time as is specified by the county health unit director.

Section 5. Paragraph (b) of subsection (8) of section 381.272, Florida Statutes, is amended to read:

381.272 Onsite sewage disposal systems; installations; conditions.--

(8)

(b) The department shall appoint an Advisory Review Variance Board which shall meet monthly to recommend agency action on variance requests. The board shall be comprised of the following:

1. The Deputy Assistant Secretary for Health A-representative from-the-Health-Program--Office of the Department of Health and Rehabilitative Services, or his designee.

2. A representative from the county health units.

3. A representative from the home building industry.

4. A representative from the septic tank industry.

(3) Employ a staff, consult and retain experts, and purchase, lease or otherwise provide for such supplies, materials, equipment, and facilities as it deems desirable and necessary.

(4) Establish committees as it deems advisable and feasible.

(5) Apply for and receive funds, grants, gifts, and services from the Federal Government, the state or any of its agencies or departments, any other governmental units, and private and civic sources.

Section 5. Grants.--

(1) Any local government which establishes a committee pursuant to this act or which has established a committee which meets the requirements of this act prior to the effective date of this act may apply to the Department of State for a grant to fund expenses authorized by section 4(3). No grant may exceed \$50,000. To be eligible to receive a grant, the local government must provide matching funds on a dollar-for-dollar basis.

(2) The department shall distribute grants to eligible committees subject to the availability of funds appropriated for this purpose. Application shall be made on forms promulgated by the department. The department is authorized to promulgate rules to carry out the provisions of this section. Annually on or before January 1, the department shall compile the reports submitted to it under section 3(2) and transmit such information to the Legislature.

Section 6. This act shall take effect July 1, 1986.

Approved by the Governor July 1, 1986.

Filed in Office Secretary of State July 1, 1986.

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CHAPTER 86-222

House Bill No. 1390

An act relating to the Florida Building and Facilities Act; amending s. 255.502, F.S., relating to the definition of "pool pledged revenues"; amending ss. 255.518 and 255.52, F.S., relating to the use of proceeds of obligations with respect to building acquisition and construction costs; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (12) of section 255.502, Florida Statutes, is amended to read:

255.502 Definitions.--As used in this act, the following words and terms shall have the following meanings unless the context otherwise requires:

(12) "Pool pledged revenues" means all legislative appropriations and all fees, charges, revenues, or receipts derived by the Division of Facilities Management from the operation, leasing, or other disposition of facilities in the pool, and the proceeds of

1991 232.032 (91-105) Effective July 1, 1991

Ch. 91-104

LAWS OF FLORIDA

Ch. 91-105

liability release, which is intended for event participants, and which excludes the "spectator area" as defined in paragraph (c).

(c) "Spectator area" means a specified area within a closed-course motorsport facility intended for admission to the general public, whether or not an admission price is charged, or to which admitted persons of the general public have unrestricted access including the grandstands and other general admission seating or viewing areas.

(d) "Posted" means a nonspectator area enclosed by a fence or wall at least 6 feet high in all areas where nonparticipants might gain entrance, and at least 3 feet high in any other areas, with signs having letters at least 4 inches high restricting entry, including, but not limited to, signs reading "Nonspectator Area," displayed not more than 500 feet from the entrance to the nonspectator area and at each entrance to the nonspectator area.

(e) "Negligence" means all forms of negligence, whether misfeasance or nonfeasance and failure to warn against an existing or future dangerous condition but does not include gross negligence, recklessness, or willful and wanton conduct.

(f) "Motor vehicle" means an automobile, motorcycle, or any other vehicle propelled by power, other than muscular power, used to transport persons and which operates within the confines of a closed-course motorsports track.

(g) "Nonspectators" means event participants who have signed a motorsport liability release.

(2) Any person who operates a closed-course motorsport facility may require, as a condition of admission to any nonspectator part of such facility, the signing of a liability release form. The persons or entities owning, leasing, or operating the facility or sponsoring or sanctioning the motorsport event shall not be liable to a nonspectator, or his heirs, representative or assigns, for negligence which proximately causes injury or property damage to the nonspectator within a nonspectator area during the period of time covered by the release.

(3) A motorsport liability release may be signed by more than one person so long as the release form appears on each page, or side of a page, which is signed. A motorsport liability release shall be printed in 8 point type or larger.

Section 2. This act shall take effect October 1, 1991.

Became a law without the Governor's approval May 26, 1991.

Filed in Office Secretary of State May 24, 1991.

## CHAPTER 91-105

### Committee Substitute for House Bill No. 1637

An act relating to education; amending s. 230.23, F.S.; requiring each district school board to consider the teaching experience of certain instructional personnel in determining the salary schedule for instructional personnel; amending s. 228.041, F.S.; revising definitions in the Florida



(1)

~~(d)1. This section shall not apply to students who are pregnant; however, a student who is a parent may be exempt under provisions of s. 232.06.~~

2. Students who become or have become married and students who are pregnant shall not be prohibited from attending school. These students and students who are parents shall receive the same educational instruction or its equivalent as other students, but may voluntarily be assigned to a class or program suited to their special needs. Consistent with s. 230.2316, pregnant or parenting teens shall be entitled to participate in a teenage parent program. Pregnant students may attend alternative education programs or adult education programs, provided that the curriculum allows the student to continue to work toward a high school diploma.

(e) Beginning with the 1991-1992 school year and consistent with rules adopted by the state board, handicapped children who ~~will~~ have attained the age of 3 years ~~on or before September 1 of the school year~~ shall be eligible for admission to public special education programs and for related services under rules adopted by the school board. Exceptional children who are hearing impaired, visually impaired, dual sensory impaired, deaf-blind, severely physically handicapped, trainable mentally handicapped, or profoundly handicapped, or who have established conditions of or exhibit developmental delays, below age 3 may be eligible for special programs; or, if enrolled in other prekindergarten or day care programs, they may be eligible for supplemental instruction. Rules for the identification of established conditions of developmental delays or developmental delays for children birth through 2 years of age shall be promulgated by the State Board of Education.

Section 30. Subsection (1) of section 232.0315, Florida Statutes, is amended to read:

232.0315 School entry health examinations.—

(1) The school board of each district and the governing authority of each nonpublic school shall require that each child who is entitled to admittance to pre-kindergarten or kindergarten, or is entitled to any other initial entrance into a public or nonpublic school in this state, present a certification of a school-entry health examination performed within 1 year prior to enrollment in school. The school board of each district, and the governing authority of each nonpublic school, may establish a policy which permits a student up to 30 school days to present a certification of a school-entry health examination. Any school board which establishes such a policy shall include provisions in its local school health services plan to assist students in obtaining the health examinations. However, any child shall be exempt from the requirement of a health examination upon written request of the parent or guardian of such child stating objections to such examination on religious grounds.

Section 31. Subsection (9) of section 232.032, Florida Statutes, is amended to read:

232.032 Immunization against communicable diseases; school attendance requirements; exemptions.—

(9) The provisions of this section do not apply to those persons admitted to or attending adult education classes unless the adult students are under 21 years of age.



utes, as created by chapters 89-298 and 89-364, Laws of Florida, and amended by chapter 90-360, Laws of Florida, section 231.165, Florida Statutes, as created by chapter 89-302, Laws of Florida, and amended by chapter 90-91, Laws of Florida, are hereby repealed.

Section 82. Paragraph (b) of subsection (1) and subsections (2) and (3) of section 240.408, Florida Statutes, 1990 Supplement, are amended to read:

240.408 Challenger Astronauts Memorial Undergraduate Scholarship Program.—

(1) There is created a Challenger Astronauts Memorial Undergraduate Scholarship Program to be administered by the Department of Education. Eligibility for scholarships awarded pursuant to this section shall be limited to students who:

(b) Receive a Florida public school diploma pursuant to s. 229.814 or s. 232.246, or graduate from a Florida nonpublic secondary school in compliance with ss. 229.808 and 232.246(1)-(4) and regulations of the Federal Office for Civil Rights and which school is accredited by the Southern Association of Colleges and Schools or another statewide accrediting agency affiliated with the Council for American Private Education.

(2) Each district school board shall nominate one candidate annually for receipt of an award pursuant to this section. Such nominations shall be made subject to the recommendations of a district nominating panel appointed by the school board, which shall consist of teachers, administrators, and lay persons. Additional-ly, a committee of nonpublic school personnel appointed by the Commissioner of Education shall nominate seven eligible nonpublic school candidates pursuant to this section. Criteria for student nominations shall consist of extracurricular activities, letters of recommendation, and an essay of no more than 1,000 words related to the topic of "The Challenge of Space."

(3) A panel consisting of the Chancellor of the Board of Regents, the executive director of the community college system, and the Commissioner of Education shall select 20 award recipients from the district nominees and 2 award recipients from nonpublic school nominees.

Section 83. Except as otherwise provided herein, this act shall take effect July 1, 1991, or upon becoming a law, whichever occurs later.

Approved by the Governor May 24, 1991.

Filed in Office Secretary of State May 24, 1991.

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## CHAPTER 91-106

### Committee Substitute for House Bill No. 2089

An act relating to warranty associations; amending s. 627.6085, F.S.; providing circumstances under which written notice of cancellation is not required for health insurance policies; amending s. 627.7275, F.S.; requiring motor vehicle insurers to make available certain noncancelable liability coverage when necessary to reinstate an applicant's driving privilege;

1994 94-320 s 1 (effective July 1, 1994)

Ch. 94-319

LAWS OF FLORIDA

Ch. 94-320

Section 7. This act shall take effect July 1, 1994.

Approved by the Governor May 31, 1994.

Filed in Office Secretary of State May 31, 1994.

## CHAPTER 94-320

### Committee Substitute for House Bill No. 2375

An act relating to communicable disease control; amending s. 232.032, F.S.; requiring a review and report concerning the incidence of tuberculosis in school-aged children; requiring children in nonpublic preschools to present proof of immunization; providing for permanent and temporary medical exemptions; providing for the electronic transfer of immunization certification; correcting inaccurate references to county public health units and the State Health Officer; amending s. 392.51, F.S.; providing legislative findings with respect to the control of tuberculosis in the state; amending s. 392.52, F.S.; providing definitions; amending s. 392.53, F.S.; revising reporting requirements for persons who diagnose or treat tuberculosis patients; amending s. 392.54, F.S.; providing requirements with respect to the department's investigation of the source and spread of tuberculosis; requiring that treatment for tuberculosis be treatment to cure; amending s. 392.55, F.S.; revising requirements for examinations and treatment; authorizing the use of directly observed therapy; providing for an expedited hearing on a warrant for a person to be apprehended or examined; authorizing a waiver of the court appearance at such hearing; authorizing that such appearance may be made by television monitor; amending s. 392.56, F.S.; providing for hospitalization or residential isolation for a person who has active tuberculosis; providing for an expedited hearing on an order that a person be hospitalized or isolated; authorizing a waiver of the court appearance at such hearing; authorizing that such appearance may be made by television monitor; requiring a hearing on the necessity for continued hospitalization or treatment; requiring the department to notify certain facilities of a court order to hospitalize a person who has active tuberculosis; creating s. 392.565, F.S.; authorizing a physician to request that the State Health Officer order a patient to be held pending a hearing for involuntary examination or treatment; amending s. 392.57, F.S.; authorizing the department to request, and a court to issue, an emergency hold order for a person who has active tuberculosis; amending s. 392.59, F.S.; requiring the department to develop and furnish additional forms to the court; amending s. 392.60, F.S.; revising circumstances under which a person may appeal an order of involuntary examination or hospitalization or an order of emergency hold; amending s. 392.61, F.S.; requiring the department to develop treatment plans for persons who have active tuberculosis as part of the department's community tuberculosis control program; requiring the department to develop a methodology for distributing funds appropriated for tuberculosis control; amending ss. 392.62 and 392.63, F.S., relating to hospitalization and placement pro-

grams and temporary leave; conforming provisions to changes made by the act; amending s. 392.64, F.S.; providing additional requirements for the department in developing treatment plans for persons who have active tuberculosis; creating s. 392.655, F.S.; authorizing the department and its agents to enter certain detention facilities for purposes of interviewing, examining, and treating any prisoner for tuberculosis; requiring detention facilities to cooperate with the department and provide space for examination and treatment; amending s. 392.67, F.S.; providing additional penalties; providing requirements for the department in determining certain fines; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2) through (9) of section 232.032, Florida Statutes, are renumbered as subsections (3) through (10), respectively, present subsections (2), (3), (5), (6), and (7) are amended, and a new subsection (2) is added to said section, to read:

232.032 Immunization against communicable diseases; school attendance requirements; exemptions.—

(2) The Department of Health and Rehabilitative Services, in conjunction with the Department of Education, the Florida Parent-Teacher Association, and the American Lung Association of Florida, shall investigate the incidence of tuberculosis among school-aged children in the state. As part of this investigation, the department shall determine if there is a need to establish a threshold incidence rate of tuberculosis in schools at which time specific action should be taken to address these concerns, and an indication of what specific action is necessary. A report on these activities is due to the Legislature by December 15, 1994. Nothing in this paragraph shall be construed to limit the existing authority of the Department of Health and Rehabilitative Services to control the transmission of communicable diseases.

(3)(2) The school board of each district and the governing authority of each nonpublic school shall establish and enforce as policy that, prior to admittance to or attendance in a public or nonpublic school, grades ~~preschool kindergarten~~ through 12, ~~or a public preschool~~, each child present or have on file with the school a certification of immunization for the prevention of those communicable diseases for which immunization is required by the Department of Health and Rehabilitative Services and further shall provide for appropriate screening of its pupils for scoliosis at the proper age. Such certification shall be made on forms approved and provided by the Department of Health and Rehabilitative Services and shall become a part of each student's permanent record, to be transferred when the student transfers, is promoted, or changes schools. Effective July 1, 1994, the transfer of such immunization certification by Florida public schools shall be accomplished using the Florida Automated System for Transferring Education Records and shall be deemed to meet the requirements of this section.

(4)(3) The provisions of this section shall not apply if:

(a) The parent or guardian of the child objects in writing that the administration of immunizing agents conflicts with his religious tenets or practices;

(b) A physician licensed under the provisions of chapter 458 ~~or~~ chapter 459, ~~or chapter 460~~ certifies in writing, on a form approved and provided by the Department of Health and Rehabilitative Services, that the child should be permanently exempt from the required immunization for medical reasons stated in writing, based upon valid clinical reasoning or evidence, demonstrating the need for the permanent exemption ~~at that time~~;

(c) ~~A physician licensed under the provisions of chapter 458, chapter 459, or chapter 460 certifies in writing, on a form approved and provided by the Department of Health and Rehabilitative Services, that the child has received as many immunizations as are medically indicated at the time and is in the process of completing necessary immunizations;~~

(d)(e) The Department of Health and Rehabilitative Services determines that, according to recognized standards of medical practice, any required immunization is unnecessary or hazardous; or

(e)(d) An authorized school official issues a temporary exemption, for a period not to exceed 30 school days, to permit a child who transfers into a new county to attend class until his records can be obtained. The public school health nurse or authorized nonpublic school official is responsible for followup of each such child until proper documentation or immunizations are obtained.

(6)(5) The parents or guardians of any child admitted to or in attendance at a Florida public or nonpublic school, grades preschool kindergarten through 12, ~~or a public preschool~~ are responsible for assuring that the child is in compliance with the provisions of this section.

(7)(6) Each public school, ~~or kindergarten, or preschool, and~~ each nonpublic school, ~~or kindergarten, or preschool and each public preschool~~ shall be required to provide to the county public health unit director or administrator annual reports of compliance with the provisions of this section. Reports shall be completed on forms provided by the Department of Health and Rehabilitative Services for each public preschool, kindergarten, first grade, and other grade as specified; and the reports shall include the status of children who were admitted at the beginning of the school year. After consultation with the Department of Education, the Department of Health and Rehabilitative Services shall establish by administrative rule the dates for submission of these reports, the grades for which the reports shall be required, and the forms to be used.

(8)(7) The presence of any of the communicable diseases for which immunization is required by the Department of Health and Rehabilitative Services in a Florida public or nonpublic school shall permit the county public health unit director or administrator or the State Health Officer Deputy Assistant Secretary for Health to declare a communicable disease emergency. The declaration of such emergency shall mandate that all children in attendance in the school who are not in compliance with the provisions of this section be identified by the district school board or by the governing authority of the nonpublic school; and the school health and immunization records of such children shall be made available to the county public health unit director or administrator. Those children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from school by the district school board, or the governing authority, until such time as is specified by the county public health unit director or administrator.

(1) It is unlawful for any person who ~~has active is-infected-with tuberculosis and who knows or has been informed of that fact his-disease-is-in-an-infectious-state~~ to willfully expose other persons to the disease.

(2) Any person who violates ~~the-provisions-of~~ subsection (1) ~~commits is-guilty~~ of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any person who maliciously disseminates any false information or report concerning the existence of tuberculosis ~~commits is-guilty-of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

~~(4)(a) In addition to any administrative action authorized by chapter 120 or by other law, a~~ Any person who violates any provision of the department's rules pertaining to tuberculosis ~~or the requirements for reporting tuberculosis under s. 392.53~~ may be punished by a fine not to exceed \$500 for each violation. Any penalties enforced under this subsection shall be in addition to other penalties provided by this chapter.

~~(b) In determining the amount of fine to be imposed, if any, for a violation, the department shall consider:~~

~~1. The gravity of the violation, including the probability that death or serious physical or emotional harm to any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the applicable law or rule was violated.~~

~~2. Actions taken to correct the violation.~~

~~3. Any previous violation.~~

~~(c) All amounts collected under this subsection shall be deposited into an appropriate trust fund of the department.~~

Section 18. This act shall take effect July 1, 1994.

Approved by the Governor May 31, 1994.

Filed in Office Secretary of State May 31, 1994.

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## CHAPTER 94-321

### House Bill No. 2463

An act relating to federally delegated environmental permit programs; amending s. 403.061, F.S.; providing additional powers and duties of the Department of Environmental Protection relating to the federal Clean Air Act and to training requirements for persons making visible air emissions and terminations; amending s. 403.0872, F.S.; providing that certain state operation permits for major sources of air pollution are contingent on federal program approval; providing that state annual license fees terminate upon imposition of federal program annual fees; reducing annual fees for sources permitted through general permits; providing a fee exception for certain revised construction permits; requiring certain persons to

1995 95-149 s 1540 (Became law May 2, 1995)

Ch. 95-146

LAWS OF FLORIDA

Ch. 95-147

Section 32. Paragraph (e) of subsection (3) of section 327.28, Florida Statutes (1994 Supplement), is repealed.

Reviser's note.—Paragraph (3)(e) is repealed to delete a provision which has served its purpose.

Section 33. Subsection (3) of section 373.441, Florida Statutes (1994 Supplement), is repealed.

Reviser's note.—Subsection (3) is repealed to delete an obsolete provision.

The Partners for a Better Florida Advisory Council expired on October 1, 1994, pursuant to s. 15, ch. 92-277, Laws of Florida.

Section 34. Subsection (4) of section 395.806, Florida Statutes (1994 Supplement), is repealed.

Reviser's note.—Subsection (4) is repealed to delete an obsolete provision.

Section 395.803, creating the Medical Education and Tertiary Care Trust Fund, was repealed by s. 2, ch. 93-120, Laws of Florida.

Section 35. Paragraph (g) of subsection (3) of section 455.236, Florida Statutes (1994 Supplement), is repealed.

Reviser's note.—Paragraph (3)(g) is repealed to delete a provision which has served its purpose. The paragraph defines the term "HCCCB" for purposes of s. 455.236. Other than the definition at s. 455.236(3)(g), the term "HCCCB" does not currently appear in the Florida Statutes.

Became a law without the Governor's approval May 2, 1995.

Filed in Office Secretary of State May 1, 1995.

## CHAPTER 95-147

### Senate Bill No. 596

An act relating to the Florida Statutes; amending ss. 1.01(2), 6.04, 6.075(1)(a), (3)(b), 8.05, 11.013, 11.03(1), 11.05(1), 11.06, 11.061(1), (2), (3), 11.062(1), 11.12(1), 11.13(2), (5)(b), 11.147(3)(c), (4)(a), (10), 11.148(5), (22), 11.26(1)(a), (c), 11.30(1), (2), (7), (10), 11.39(1), 11.40, 11.401, 11.44(1)(a), (c), (d), 11.46(4), (5), 11.47(1), (2), 11.50(1)(a), 11.60(1), 13.01(1)(d), (2), 13.02, 13.03, 13.05, 13.08(2), (6), 13.10(4), 13.94, 14.01, 14.021(1), 14.022(1), (2), (3)(a), (c), 14.03, 14.056, 14.057(1), (2), 14.058, 14.202, 14.22(3)(b), 15.01, 15.08, 15.092, 15.14(2), 16.01(1), (2), (3), (7), (8), 16.02, 16.05, 16.08, 16.09, 16.10, 16.56(2), 17.01, 17.02, 17.03, 17.041(4), (5), 17.05, 17.06, 17.12, 17.13(1), 17.17, 17.19, 17.20, 17.21, 17.25, 17.29, 17.30, 18.01, 18.021(2), 18.03, 18.05, 18.06, 18.07, 18.101(1), (4), 18.103(2), (3), 18.17, 18.20(1), (3), 19.12, 19.14, 19.23, 20.17(4)(a), (b), (h), (5)(a), 20.171(4)(a), (b), (f), 20.18(3), 22.06, 22.07, 22.10, 22.15(1), 23.1231(2)(i), 23.140, 24.106(3), (4)(a), (c), (6)(a), 24.112(14), 24.115(1)(f),

of food service, a secretary, or a clerical employee, or any other person who by virtue of his or her position of employment is not required to be certified by the Department of Education or school board pursuant to s. 231.1725. This section does not apply to persons employed in confidential or management positions. This section applies to all employees who are not temporary or casual and whose duties require 20 or more hours in each normal working week.

(c) "Superintendent" means the superintendent of schools or his or her designee.

Section 1538. Subsection (2) of section 231.361, Florida Statutes, is amended to read:

231.361 Vocational teachers; status.—

(2) A holder of a certificate based on nonacademic preparation which entitled him or her to employment to teach classes in vocational or adult education shall not be assigned to teach in a regular academic field of the kindergarten through grade 12 school program.

Section 1539. Paragraph (c) of subsection (1) of section 232.01, Florida Statutes (1994 Supplement), is amended to read:

232.01 Regular school attendance required between ages of 6 and 16; permitted at age of 5; exceptions.—

(1)

(c) A child who attains the age of 16 years during the school year shall not be required to attend school beyond the date upon which he or she attains that age.

Section 1540. Paragraphs (a) and (e) of subsection (4) and paragraph (a) of subsection (5) of section 232.032, Florida Statutes (1994 Supplement), are amended to read:

232.032 Immunization against communicable diseases; school attendance requirements; exemptions.—

(4) The provisions of this section shall not apply if:

(a) The parent or guardian of the child objects in writing that the administration of immunizing agents conflicts with his or her religious tenets or practices;

(e) An authorized school official issues a temporary exemption, for a period not to exceed 30 school days, to permit a child who transfers into a new county to attend class until his or her records can be obtained. The public school health nurse or authorized nonpublic school official is responsible for followup of each such child until proper documentation or immunizations are obtained.

(5)(a) No person licensed by this state as a physician or nurse shall be liable for any injury caused by his or her action or failure to act in the administration of a vaccine or other immunizing agent pursuant to the provisions of this section if the person acts as a reasonably prudent person with similar professional training would have acted under the same or similar circumstances.

Section 1541. Subsection (6) of section 232.19, Florida Statutes (1994 Supplement), is amended to read:

(4) For the purpose of calculating the "current operation program," a student is in membership until he or she withdraws or until the close of the 11th consecutive school day of his or her absence, whichever comes first.

Section 1548. Paragraph (p) of subsection (1) of section 236.081, Florida Statutes (1994 Supplement), is amended to read:

236.081 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(p) Instruction in supplemental vocational courses; and adult basic and secondary courses.—Vocational supplemental courses and adult basic and secondary education courses may be made available to any adult pursuant to s. 239.301.

1. A student in an adult basic and secondary education course shall be reported as an adult basic and secondary education full-time equivalent student if he or she is pursuing a program of studies to achieve literacy, prepare for the Test of General Educational Development (GED), or earn a high school diploma.

2. A student in a supplemental vocational course shall be reported as a supplemental vocational full-time equivalent student if he or she:

- a. Currently holds wage-earning employment and is taking a course to enhance or upgrade skills related to that employment; or
- b. Has an employment history and enrolls in a course related to that employment history with the intent to seek employment in an occupation directly related to the course and employment history; or
- c. Has an employment history and wants to develop competence in the English language to qualify for employment.

Reviser's note.—Amended pursuant to the directive of the Legislature in s. 1, ch. 93-199, Laws of Florida, to remove gender-specific references applicable to human beings from the Florida Statutes without substantive change in legal effect.

Became a law without the Governor's approval May 2, 1995.

Filed in Office Secretary of State May 1, 1995.



1997 97-101 s 25 (effective May 24, 1997)

Ch. 97-101

LAWS OF FLORIDA

Ch. 97-101

## CHAPTER 97-101

## Senate Bill No. 436

An act relating to the Florida Statutes; amending ss. 39.012, 39.014, 39.046(1), (2), 39.055(1), 39.0573(2), 39.059(7)(c), 39.39, 39.41(2)(a), 39.449, 39.459, 63.032(1), 63.202(1), 63.212(1)(c), (d), (g), (h), 63.301(1), (2)(c), (4), 153.19(2), 154.001, 154.01, 154.011(1), (3), 154.013(1), 154.03, 154.05, 154.06, 154.304(5), 216.341, 232.032(1), (7), (8), 240.4075(7)(a), 240.4076(4)(a), 381.001(1), (4), 381.0011, 381.0019, 381.0034(1), 381.0035(1), 381.0036, 381.0038, 381.0039, 381.0042, 381.0051(4), (5)(a), 381.0063, 381.0072, 381.008(2), 381.0084(2), 381.009, 381.0101(2)(b), 381.0201, 381.0203(2)(a), (d), 381.0302(2)(a), (c), (e), 381.0402(1)(d), 381.0406(8), (13), 381.045, 381.0602(1), (3), 381.698(2)(l), (3)(a), (b), (6), (8), 382.002(5), 382.0135, 383.011, 383.013, 383.016, 383.04, 383.05, 383.11, 383.13, 383.16(1), 383.216(1), (2), (4), (5)(b), (6), (7), (10), 383.2161, 383.302(4), 383.3362(5)(a), (6)(a), (7)(h), 384.23(1), (2), 384.27(2), 385.103(1)(d), (2)(a), 385.203(1), (2), 385.204(1), 385.205(1), 385.206(1)(a), 385.207(2), (3), 385.209(2), 386.02, 386.03(1), 386.041(2), 386.203(7), 386.205(2)(a), 387.02, 387.03(1), 387.05, 387.08, 387.10(1), 388.45, 388.46(2)(a), 391.021(1), 391.091(1)(a), 391.214(1), 391.304, 391.305, 391.306, 391.307(1), 392.51, 392.52(2), (4), 392.55(2), 392.62(3)(e), 395.603(1), 400.441(1)(d), 400.464(4), 402.32(3)(d), (5), (6)(a), 402.321(4), (5)(b), 403.853(6), 403.860(4), (5), (6), 403.862(1), (6), (7), 404.056(6), 408.601(2), 408.701(13), 408.901(9), 409.016(1), (2), 409.141(1), (4), 409.146(1), (5), (6), (9), 409.166(2)(b), 409.167(1), 409.1685, 409.1755(3)(a), (b), (4)(a), 409.2599, 409.2675, 409.285, 409.403(1), (2), 409.404(1), 409.9112(3)(g), 410.032(1), 410.602, 410.603(1), 415.102(9), 415.501(2)(b), (3), 415.5015(5)(a), 415.5016(1), 415.50165(1), (2), (5), 415.502, 415.507(4), 415.5075, 415.5095(2), 415.515, 415.602(1), 415.604, 419.002(1), 420.623(1)(b), 458.315, 458.317(1)(c), (2), 459.0075(2), (4), 467.019(2), 509.232, 513.01(1), 513.045(2), (3), as amended by s. 16, ch. 93-120, Laws of Florida, 513.045(3), as amended by s. 6, ch. 93-150, Laws of Florida, 513.055(2)(a), as amended by s. 17, ch. 93-120, Laws of Florida, 513.055(2)(a), as amended by s. 12, ch. 93-150, Laws of Florida, 514.025, 514.028(1)(b), 514.05(4), 514.06, and 743.0645(5), Florida Statutes, and ss. 39.001(2), 39.003(5), 39.01(7), (8), (12), (14)(b), (c), (20), (30), (38), (39), (54), (55), (56), (57), (66), (67), 39.021(5), 39.025(2), (4)(d), (f), (5)(a), (c), (6)(d), (7), (8)(a), (b), 39.0361(5)(c), 39.039(3), 39.047(1)(a), 39.0517(1)(b), (c), (2), (3), (5), (7), 39.052(2)(c), (4)(d), 39.0585(1)(b), 39.418, 39.423(1), 39.442(3), (4), 39.446(3), 39.457, 63.022(2)(d), 110.205(2)(p), 230.2305(11)(b), 381.0031(1), 381.004(4), (5), (8), (10), (11)(a), (b), 381.0041(1), (3), (4), (8), (10), 381.0055, 381.0062(2)(b), (5)(c), 381.0064(1), 381.0065(3), (4), (5)(b), 381.0068, 381.0087(7), 381.0098(1), (2)(c), 381.0407(3)(b), (5), (7), 381.815, 382.356, 383.14(1), (3), (5), 384.25(7), 385.202(1), 390.002(1), (4), 402.45(3), (10), 409.1671(1), (4)(a), (5), 409.175(5)(e),

county authorities of each county and the Department of Health and Rehabilitative Services. The limitations on appropriations provided in s. 216.262(1) shall not apply to county health department unit trust funds.

Section 25. Subsections (1), (7), and (8) of section 232.032, Florida Statutes, are amended to read:

232.032 Immunization against communicable diseases; school attendance requirements; exemptions.—

(1) The Department of Health and Rehabilitative Services, after consultation with the Department of Education, shall promulgate rules governing the immunization of children against, the testing for, and the control of preventable communicable diseases. Immunizations shall be required for poliomyelitis, diphtheria, rubeola, rubella, pertussis, mumps, tetanus, and other communicable diseases as determined by rules of the Department of Health and Rehabilitative Services. The manner and frequency of administration of the immunization or testing shall conform to recognized standards of medical practice. The Department of Health and Rehabilitative Services shall supervise and secure the enforcement of the required immunization. Immunizations required by this act shall be available at no cost from the local county health departments units.

(7) Each public school, kindergarten, or preschool, and each nonpublic school, kindergarten, or preschool shall be required to provide to the county health department public-health-unit director or administrator annual reports of compliance with the provisions of this section. Reports shall be completed on forms provided by the Department of Health and Rehabilitative Services for each preschool, kindergarten, and other grade as specified; and the reports shall include the status of children who were admitted at the beginning of the school year. After consultation with the Department of Education, the Department of Health and Rehabilitative Services shall establish by administrative rule the dates for submission of these reports, the grades for which the reports shall be required, and the forms to be used.

(8) The presence of any of the communicable diseases for which immunization is required by the Department of Health and Rehabilitative Services in a Florida public or nonpublic school shall permit the county health department public-health-unit director or administrator or the State Health Officer to declare a communicable disease emergency. The declaration of such emergency shall mandate that all children in attendance in the school who are not in compliance with the provisions of this section be identified by the district school board or by the governing authority of the nonpublic school; and the school health and immunization records of such children shall be made available to the county health department public-health-unit director or administrator. Those children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from school by the district school board, or the governing authority, until such time as is specified by the county health department public-health unit director or administrator.

Section 26. Paragraph (a) of subsection (7) of section 240.4075, Florida Statutes, is amended to read:

817.505 Patient brokering prohibited; exceptions; penalties.—

(2) For the purposes of this section, the term:

(a) "Health care provider or health care facility" means any person or entity licensed, certified, or registered with the Agency for Health Care Administration; any person or entity that has contracted with the Agency for Health Care Administration to provide goods or services to Medicaid recipients as provided under s. 409.907; a county health department public health unit established under part I of chapter 154; any community service provider contracting with the Department of Health and Rehabilitative Services to furnish alcohol, drug abuse, or mental health services under part IV of chapter 394; any substance abuse service provider licensed under chapter 397; or any federally supported primary care program such as a migrant or community health center authorized under ss. 329 and 330 of the United States Public Health Services Act.

Reviser's note.—Amended pursuant to the directive of the Legislature in s. 26, ch. 96-403, Laws of Florida, to conform the Florida Statutes to the organizational changes made by ch. 96-403, Laws of Florida. References to the "Department of Children and Family Services" are substituted for references to the "Department of Health and Rehabilitative Services," and the title of the secretary of the department is conformed to the change in provisions within chapters 39, 63, 410, 411, 414, 415, and 419, and ss. 409.016-409.803, Florida Statutes. References to the "Department of Health" are substituted for references to the "Department of Health and Rehabilitative Services," and the title of the secretary of the department is conformed to the change in provisions within chapters 153, 154, 381, 382, 383, 384, 385, 386, 387, 388, 390, 391, and 392, Florida Statutes. The term "county health department" is substituted for the term "county public health unit" and for references to "public health unit" or "unit" where clearly in reference to county public health units. References to the "County Health Department Trust Fund" are substituted for references to the "County Public Health Unit Trust Fund" to reflect the change of name of the fund.

Became a law without the Governor's approval May 24, 1997.

Filed in Office Secretary of State May 23, 1997.

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## CHAPTER 97-102

### Senate Bill No. 438

An act relating to the Florida Statutes; amending ss. 607.0120(6)(a), (7), 607.0129, 607.0130(1), 607.01401(9), 607.0302(16), 607.0501(3), 607.0504(2), 607.0620(5), 607.0622(4), 607.0630(2)(b), 607.0705(1), (5), 607.0707(2), 607.0720(2), (3), (5), 607.0721(5), (6), (7), (8)(a), 607.0722(2), (4), (7), (9), 607.0728(2), 607.0730(1), 607.0731(3), 607.07401(7), 607.0805(5), 607.0807(1), 607.0808(2), (3),



1997 97-190 s 22 (Effective July 1, 1997)

Ch. 97-189

LAWS OF FLORIDA

Ch. 97-190

- (c) The business activity made such a record as a regular practice; and
- (d) If such record is not the original, it is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

(4) No evidence in such records in the form of opinion or diagnosis is admissible under subsection (2) unless such opinion or diagnosis would be admissible under ss. 90.701-90.705 if the person whose opinion is recorded were to testify to the opinion directly.

(5)(4) At the arraignment or as soon after the arraignment as practicable, or 60 days prior to a civil trial, a party intending to offer in evidence under this section a foreign record of regularly conducted business activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but the court for cause shown may grant relief from the waiver.

Section 2. This act shall take effect July 1, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.

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## CHAPTER 97-190

### Committee Substitute for House Bill No. 137

An act relating to education; amending s. 230.03, F.S., relating to management of the district school system; correcting a cross reference; repealing s. 230.105(9), F.S., relating to ballot proposition wording for single-member representation for district school boards; amending s. 230.22, F.S.; revising provisions relating to general powers of school boards; amending s. 230.23, F.S.; revising provisions relating to powers and duties of school boards; amending s. 230.2301, F.S.; revising provisions relating to parent meetings with school district personnel; amending s. 230.2305, F.S.; revising provisions relating to the prekindergarten early intervention program; repealing s. 230.23135, F.S., relating to the Florida Council on Student Services; amending s. 230.2316, F.S.; revising provisions relating to dropout prevention; deleting definitions, certain program criteria, and provisions requiring program plans and staff development; amending s. 230.23161, F.S.; correcting a cross reference; amending s. 230.2317, F.S.; revising provisions relating to multi-agency services for students with severe emotional disturbance; amending s. 230.2318, F.S.; authorizing school resource officer pro-

232.0225 Absence for religious instruction or holidays.—Each school board shall adopt a policy which authorizes a parent or guardian to request and be granted permission for absence of a student from school for religious instruction or religious holidays.

Section 20. Section 232.023, Florida Statutes, as amended by chapter 95-147, Laws of Florida, is hereby repealed.

Section 21. Section 232.03, Florida Statutes, is amended to read:

232.03 Evidence of date of birth required.—Before admitting a child to prekindergarten or kindergarten, the principal shall require evidence that the child has attained the age at which he or she should be admitted in accordance with the provisions of s. 232.01, ~~s. 232.04, or s. 232.045~~. The superintendent may require evidence of the age of any child whom he or she believes to be within the limits of compulsory attendance as provided for by law. If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

(1) A duly attested transcript of the child's birth record filed according to law with a public officer charged with the duty of recording births;

(2) A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the child, accompanied by an affidavit sworn to by the parent;

(3) An insurance policy on the child's life which has been in force for at least 2 years;

(4) A bona fide contemporary Bible record of the child's birth accompanied by an affidavit sworn to by the parent;

(5) A passport or certificate of arrival in the United States showing the age of the child;

(6) A transcript of record of age shown in the child's school record of at least 4 years prior to application, stating date of birth; or

(7) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if neither of these shall be available in the county, by a licensed practicing physician designated by the school board, which certificate shall state that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct.

Section 22. Subsection (2) of section 232.032, Florida Statutes, as created by chapter 94-320, Laws of Florida, section 232.034, Florida Statutes, as amended by chapter 95-147, Laws of Florida, and sections 232.04 and 232.045, Florida Statutes, are hereby repealed.

Section 23. Section 232.06, Florida Statutes, is amended to read:

Section 161. Sections 228.0617 and 228.085, Florida Statutes, are repealed.

Section 162. Subsection (3) of section 228.121, Florida Statutes, is amended to read:

228.121 Nonresident tuition fee; tuition fee exemptions.—

(3) No tuition shall be charged pupils who are homeless children as defined in s. 228.041(35) ~~s. 228.041(36)~~; pupils whose parent, parents, or guardian are in the federal military service or are civilian employees, the cost of whose education is provided in part or in whole by federal subsidy to state-supported schools; or pupils whose parent, parents, or guardian are migratory agricultural workers. No tuition shall be charged pupils who reside in residential care facilities operated by the Department of Health and Rehabilitative Services and who receive their education under s. 230.23(4)(n).

Section 163. This act shall take effect July 1, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.

1997 97-237 s 14 (Effective July 1, 1997)

Ch. 97-236

LAWS OF FLORIDA

Ch. 97-237

by federal statute or other federal action, and service fees, and all earnings thereon, shall be deposited into the department's Grants and Donations Trust Fund. Service fees and all earnings thereon must be used solely for program administration. The loan grant allocation revenues and earnings thereon must be used solely for the purpose of making grants to financially disadvantaged small communities. Federal appropriations and state matching funds for grants authorized by federal statute or other federal action, and earnings thereon, must be used solely for the purposes authorized. All deposits into the department's Grants and Donations Trust Fund under this section, and earnings thereon, must be accounted for separately from all other moneys deposited into the fund.

Section 27. Beginning in fiscal year 1998-1999, the Department of Environmental Protection shall make available up to 10 percent of the annual revenue received in the Sewage Treatment Revolving Loan Fund for loans to local governmental agencies for constructing stormwater management systems authorized pursuant to s. 403.1835, Florida Statutes. During this period of time, if the department does not receive requests for projects to use the funds available for stormwater management systems, such funds shall be used for constructing sewage treatment facilities and other activities authorized by s. 403.1835, Florida Statutes.

Section 28. This act shall take effect July 1, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.

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## CHAPTER 97-237

### House Bill No. 1357

An act relating to the Department of Health; amending ss. 154.067, 395.1023, 415.501, F.S.; clarifying agency responsibilities with respect to certain child protection functions; amending s. 415.5055, F.S.; requiring an interagency agreement; providing specific agency responsibilities; requiring consultation between agencies for certain functions; providing for the transfer of certain funds; amending s. 20.19, F.S.; conforming provisions to changes made by the act; amending s. 20.43, F.S.; modifying the purposes of the Department of Health; renaming a division within the department; creating a new division; providing for the transfer of the functions for complaints, investigations, and prosecutions to the Department of Health; amending s. 11 of chapter 96-403, Laws of Florida, providing for the transfer of the functions for complaints, investigations, and prosecutions to the Department of Health; authorizing the department to expend funds for certain purposes; amending s. 110.131, F.S.; conforming provisions to changes made by the act; amending s. 154.04, F.S.; authorizing county health departments to establish

Section 13. Section 216.341, Florida Statutes, is amended to read:

216.341 Disbursement of county health ~~department unit~~ trust funds.— County health ~~department unit~~ trust funds may be expended by the Department of Health and ~~Rehabilitative Services~~ for the respective county health departments in accordance with budgets and plans agreed upon by the county authorities of each county and the Department of Health and ~~Rehabilitative Services~~. The limitations on appropriations provided in s. 216.262(1) shall not apply to county health ~~department unit~~ trust funds.

Section 14. Section 232.032, Florida Statutes, is amended to read:

232.032 Immunization against communicable diseases; school attendance requirements; exemptions.—

(1) The Department of Health and ~~Rehabilitative Services~~, after consultation with the Department of Education, shall promulgate rules governing the immunization of children against, the testing for, and the control of preventable communicable diseases. Immunizations shall be required for poliomyelitis, diphtheria, rubeola, rubella, pertussis, mumps, tetanus, and other communicable diseases as determined by rules of the Department of Health and ~~Rehabilitative Services~~. The manner and frequency of administration of the immunization or testing shall conform to recognized standards of medical practice. The Department of Health and ~~Rehabilitative Services~~ shall supervise and secure the enforcement of the required immunization. Immunizations required by this act shall be available at no cost from the local county health ~~departments units~~.

(2) ~~The Department of Health and Rehabilitative Services, in conjunction with the Department of Education, the Florida Parent-Teacher Association, and the American Lung Association of Florida, shall investigate the incidence of tuberculosis among school-age children in the state. As part of this investigation, the department shall determine if there is a need to establish a threshold incidence rate of tuberculosis in schools at which time specific action should be taken to address these concerns, and an indication of what specific action is necessary. A report on these activities is due to the Legislature by December 15, 1994. Nothing in this paragraph shall be construed to limit the existing authority of the Department of Health and Rehabilitative Services to control the transmission of communicable diseases.~~

(2)(3) The school board of each district and the governing authority of each nonpublic school shall establish and enforce as policy that, prior to admittance to or attendance in a public or nonpublic school, grades preschool through 12, each child present or have on file with the school a certification of immunization for the prevention of those communicable diseases for which immunization is required by the Department of Health and ~~Rehabilitative Services~~ and further shall provide for appropriate screening of its pupils for scoliosis at the proper age. Such certification shall be made on forms approved and provided by the Department of Health and ~~Rehabilitative Services~~ and shall become a part of each student's permanent record, to be transferred when the student transfers, is promoted, or changes



~~Effective July 1, 1994,~~ The transfer of such immunization certification by Florida public schools shall be accomplished using the Florida Automated System for Transferring Education Records and shall be deemed to meet the requirements of this section.

~~(3)(4)~~ The provisions of this section shall not apply if:

(a) The parent or guardian of the child objects in writing that the administration of immunizing agents conflicts with his or her religious tenets or practices;

(b) A physician licensed under the provisions of chapter 458 or chapter 459 certifies in writing, on a form approved and provided by the Department of Health ~~and Rehabilitative Services~~, that the child should be permanently exempt from the required immunization for medical reasons stated in writing, based upon valid clinical reasoning or evidence, demonstrating the need for the permanent exemption;

(c) A physician licensed under the provisions of chapter 458, chapter 459, or chapter 460 certifies in writing, on a form approved and provided by the Department of Health ~~and Rehabilitative Services~~, that the child has received as many immunizations as are medically indicated at the time and is in the process of completing necessary immunizations;

(d) The Department of Health ~~and Rehabilitative Services~~ determines that, according to recognized standards of medical practice, any required immunization is unnecessary or hazardous; or

(e) An authorized school official issues a temporary exemption, for a period not to exceed 30 school days, to permit a child who transfers into a new county to attend class until his or her records can be obtained. The public school health nurse or authorized nonpublic school official is responsible for followup of each such child until proper documentation or immunizations are obtained.

~~(4)(5)(a)~~ No person licensed by this state as a physician or nurse shall be liable for any injury caused by his or her action or failure to act in the administration of a vaccine or other immunizing agent pursuant to the provisions of this section if the person acts as a reasonably prudent person with similar professional training would have acted under the same or similar circumstances.

(b) No member of a school board, or any of its employees, or member of a governing board of a nonpublic school, or any of its employees, shall be liable for any injury caused by the administration of a vaccine to any student who is required to be so immunized or for a failure to diagnose scoliosis pursuant to the provisions of this section.

~~(5)(6)~~ The parents or guardians of any child admitted to or in attendance at a Florida public or nonpublic school, grades preschool through 12, are responsible for assuring that the child is in compliance with the provisions of this section.

~~(6)(7)~~ Each public school, kindergarten, or preschool, and each nonpublic school, kindergarten, or preschool shall be required to provide to the county public health ~~department unit~~ director or administrator annual reports of compliance with the provisions of this section. Reports shall be completed on forms provided by the Department of Health and ~~Rehabilitative Services~~ for each preschool, kindergarten, and other grade as specified; and the reports shall include the status of children who were admitted at the beginning of the school year. After consultation with the Department of Education, the Department of Health and ~~Rehabilitative Services~~ shall establish by administrative rule the dates for submission of these reports, the grades for which the reports shall be required, and the forms to be used.

~~(7)(8)~~ The presence of any of the communicable diseases for which immunization is required by the Department of Health and ~~Rehabilitative Services~~ in a Florida public or nonpublic school shall permit the county public health ~~department unit~~ director or administrator or the State Health Officer to declare a communicable disease emergency. The declaration of such emergency shall mandate that all children in attendance in the school who are not in compliance with the provisions of this section be identified by the district school board or by the governing authority of the nonpublic school; and the school health and immunization records of such children shall be made available to the county public health ~~department unit~~ director or administrator. Those children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from school by the district school board, or the governing authority, until such time as is specified by the county public health ~~department unit~~ director or administrator.

~~(8)(9)~~ The school board of each district and the governing authority of each private school shall:

(a) Refuse admittance to any child otherwise entitled to admittance to kindergarten, or any other initial entrance into a Florida public or nonpublic school, who is not in compliance with the provisions of subsection (2).

(b) ~~Effective August 1, 1982,~~ Temporarily exclude from attendance any student who is not in compliance with the provisions of subsection (2).

~~(9)(10)~~ The provisions of this section do not apply to those persons admitted to or attending adult education classes unless the adult students are under 21 years of age.

Section 15. Subsection (4) of section 232.465, Florida Statutes, 1996 Supplement, is amended to read:

232.465 Provision of medical services; restrictions.—

(4) Each district school board shall establish emergency procedures in accordance with ~~s. 381.0056(5)~~ ~~s. 402.32(5)~~ for life-threatening emergencies.

Section 16. Subsections (4) through (10) of section 240.4075, Florida Statutes, are amended to read:

Section 150. Section 458.3165, Florida Statutes, is amended to read:

**458.3165 Public psychiatry certificate.**—The board shall issue a public psychiatry certificate to an individual who remits an application fee not to exceed \$300, as set by the board, who is a board-certified psychiatrist, who is licensed to practice medicine without restriction in another state, and who meets the requirements in s. 458.311(1)(a)-(g) ~~s. 458.311(1)(a)-(f)~~ and (5).

(1) Such certificate shall:

(a) Authorize the holder to practice only in a public mental health facility or program funded in part or entirely by state funds.

(b) Be issued and renewable biennially if the secretary of the Department of Health and Rehabilitative Services and the chairman of the department of psychiatry at one of the public medical schools or the chairman of the department of psychiatry at the accredited medical school at the University of Miami recommend in writing that the certificate be issued or renewed.

(c) Automatically expire if the holder's relationship with a public mental health facility or program expires.

(d) Not be issued to a person who has been adjudged unqualified or guilty of any of the prohibited acts in this chapter.

(2) The board may take disciplinary action against a certificateholder for noncompliance with any part of this section or for any reason for which a regular licensee may be subject to discipline.

Section 151. Paragraph (a) of subsection (1) of section 458.317, Florida Statutes, is amended to read:

**458.317 Limited licenses.**—

(1)(a) Any person desiring to obtain a limited license shall:

1. Submit to the board, with an application and fee not to exceed \$300, an affidavit stating that he has been licensed to practice medicine in any jurisdiction in the United States for at least 10 years and has retired or intends to retire from the practice of medicine and intends to practice only pursuant to the restrictions of a limited license granted pursuant to this section. If the person applying for a limited license submits a notarized statement from the employing agency or institution stating that he will not receive monetary compensation for any service involving the practice of medicine, the application fee and all licensure fees shall be waived.

2. Meet the requirements in s. 458.311(1)(b)-(g) ~~s. 458.311(1)(b)-(f)~~ and (5). If the applicant graduated from medical school prior to 1946, the board or its appropriate committee may accept military medical training or medical experience as a substitute for the approved 1-year residency requirement in s. 458.311(1)(f).

Section 152. Except as otherwise provided in this act, this act shall take effect July 1, 1997.

2002 2002-387 s 117 (5a &amp; 5b)

Ch. 2002-386

LAWS OF FLORIDA

Ch. 2002-387

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor May 15, 2002.

Filed in Office Secretary of State May 15, 2002.

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## CHAPTER 2002-387

### Senate Bill No. 20-E

An act relating to education and matters connected therewith; creating the "Florida K-20 Education Code"; creating ch. 1000, F.S., entitled "K-20 General Provisions," consisting of part I relating to general provisions, part II relating to systemwide definitions, and part III relating to educational compacts; creating ch. 1001, F.S., entitled "K-20 Governance," consisting of part I relating to state-level governance, part II relating to school district governance, part III relating to community colleges, and part IV relating to state universities; creating ch. 1002, F.S., entitled "Student and Parental Rights and Educational Choices," consisting of part I relating to general provisions, part II relating to student and parental rights, part III relating to educational choice, and part IV relating to home education, private schools, and other education options; creating ch. 1003, F.S., entitled "Public K-12 Education," consisting of part I relating to general provisions, part II relating to school attendance, part III relating to control of students, part IV relating to public K-12 educational instruction, part V relating to specialized instruction for certain public K-12 students, and part VI relating to pilot public K-12 education programs; creating ch. 1004, F.S., entitled "Public Postsecondary Education," consisting of part I relating to general provisions, part II relating to state universities, part III relating to community colleges, and part IV relating to workforce development education; creating ch. 1005, F.S., entitled "Nonpublic Postsecondary Education," consisting of part I relating to general provisions, part II relating to the Commission for Independent Education, and part III relating to licensure of nonpublic postsecondary educational institutions; creating ch. 1006, F.S., entitled "Support for Learning and Student Services," consisting of part I relating to public K-12 education support for learning and student services and part II relating to postsecondary educational institutions; creating ch. 1007, F.S., entitled "Access and Articulation," consisting of part I relating to general provisions, part II relating to articulation, and part III relating to access to postsecondary education; creating ch. 1008, F.S., entitled "Assessment and Accountability," consisting of part I relating to assessment, part II relating to accountability, and part III relating to the Council for Education Policy Research and Improvement; creating ch. 1009, F.S., entitled "Educational Scholarships, Fees, and Financial Assistance," consisting of part I relating to general provisions, part II relating to postsecondary student fees,

(a) A duly attested transcript of the child's birth record filed according to law with a public officer charged with the duty of recording births;

(b) A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the child, accompanied by an affidavit sworn to by the parent;

(c) An insurance policy on the child's life that has been in force for at least 2 years;

(d) A bona fide contemporary religious record of the child's birth accompanied by an affidavit sworn to by the parent;

(e) A passport or certificate of arrival in the United States showing the age of the child;

(f) A transcript of record of age shown in the child's school record of at least 4 years prior to application, stating date of birth; or

(g) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if neither of these is available in the county, by a licensed practicing physician designated by the district school board, which certificate states that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct. A homeless child, as defined in s. 1003.01, shall be given temporary exemption from this section for 30 school days.

Section 117. Section 1003.22, Florida Statutes, is created to read:

1003.22 School-entry health examinations; immunization against communicable diseases; exemptions; duties of Department of Health.—

(1) Each district school board and the governing authority of each private school shall require that each child who is entitled to admittance to kindergarten, or is entitled to any other initial entrance into a public or private school in this state, present a certification of a school-entry health examination performed within 1 year prior to enrollment in school. Each district school board, and the governing authority of each private school, may establish a policy that permits a student up to 30 school days to present a certification of a school-entry health examination. A homeless child, as defined in s. 1003.01, shall be given a temporary exemption for 30 school days. Any district school board that establishes such a policy shall include provisions in its local school health services plan to assist students in obtaining the health examinations. However, any child shall be exempt from the requirement of a health examination upon written request of the parent of the child stating objections to the examination on religious grounds.

(2) The State Board of Education, subject to the concurrence of the Department of Health, shall adopt rules to govern medical examinations and immunizations performed under this section.

(3) The Department of Health may adopt rules necessary to administer and enforce this section. The Department of Health, after consultation with

the Department of Education, shall adopt rules governing the immunization of children against, the testing for, and the control of preventable communicable diseases. The rules must include procedures for exempting a child from immunization requirements. Immunizations shall be required for poliomyelitis, diphtheria, rubeola, rubella, pertussis, mumps, tetanus, and other communicable diseases as determined by rules of the Department of Health. The manner and frequency of administration of the immunization or testing shall conform to recognized standards of medical practice. The Department of Health shall supervise and secure the enforcement of the required immunization. Immunizations required by this section shall be available at no cost from the county health departments.

(4) Each district school board and the governing authority of each private school shall establish and enforce as policy that, prior to admittance to or attendance in a public or private school, grades kindergarten through 12, each child present or have on file with the school a certification of immunization for the prevention of those communicable diseases for which immunization is required by the Department of Health and further shall provide for appropriate screening of its students for scoliosis at the proper age. Such certification shall be made on forms approved and provided by the Department of Health and shall become a part of each student's permanent record, to be transferred when the student transfers, is promoted, or changes schools. The transfer of such immunization certification by Florida public schools shall be accomplished using the Florida Automated System for Transferring Education Records and shall be deemed to meet the requirements of this section.

(5) The provisions of this section shall not apply if:

(a) The parent of the child objects in writing that the administration of immunizing agents conflicts with his or her religious tenets or practices;

(b) A physician licensed under the provisions of chapter 458 or chapter 459 certifies in writing, on a form approved and provided by the Department of Health, that the child should be permanently exempt from the required immunization for medical reasons stated in writing, based upon valid clinical reasoning or evidence, demonstrating the need for the permanent exemption;

(c) A physician licensed under the provisions of chapter 458, chapter 459, or chapter 460 certifies in writing, on a form approved and provided by the Department of Health, that the child has received as many immunizations as are medically indicated at the time and is in the process of completing necessary immunizations;

(d) The Department of Health determines that, according to recognized standards of medical practice, any required immunization is unnecessary or hazardous; or

(e) An authorized school official issues a temporary exemption, for a period not to exceed 30 school days, to permit a student who transfers into a new county to attend class until his or her records can be obtained. A

homeless child, as defined in s. 1003.01, shall be given a temporary exemption for 30 school days. The public school health nurse or authorized private school official is responsible for followup of each such student until proper documentation or immunizations are obtained. An exemption for 30 days may be issued for a student who enters a juvenile justice program to permit the student to attend class until his or her records can be obtained or until the immunizations can be obtained. An authorized juvenile justice official is responsible for followup of each student who enters a juvenile justice program until proper documentation or immunizations are obtained.

(6)(a) No person licensed by this state as a physician or nurse shall be liable for any injury caused by his or her action or failure to act in the administration of a vaccine or other immunizing agent pursuant to the provisions of this section if the person acts as a reasonably prudent person with similar professional training would have acted under the same or similar circumstances.

(b) No member of a district school board, or any of its employees, or member of a governing board of a private school, or any of its employees, shall be liable for any injury caused by the administration of a vaccine to any student who is required to be so immunized or for a failure to diagnose scoliosis pursuant to the provisions of this section.

(7) The parents of any child admitted to or in attendance at a Florida public or private school, grades kindergarten through 12, are responsible for assuring that the child is in compliance with the provisions of this section.

(8) Each public school, including public kindergarten, and each private school, including private kindergarten, shall be required to provide to the county health department director or administrator annual reports of compliance with the provisions of this section. Reports shall be completed on forms provided by the Department of Health for each kindergarten, and other grade as specified; and the reports shall include the status of children who were admitted at the beginning of the school year. After consultation with the Department of Education, the Department of Health shall establish by administrative rule the dates for submission of these reports, the grades for which the reports shall be required, and the forms to be used.

(9) The presence of any of the communicable diseases for which immunization is required by the Department of Health in a Florida public or private school shall permit the county health department director or administrator or the State Health Officer to declare a communicable disease emergency. The declaration of such emergency shall mandate that all students in attendance in the school who are not in compliance with the provisions of this section be identified by the district school board or by the governing authority of the private school; and the school health and immunization records of such children shall be made available to the county health department director or administrator. Those children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from school by the district school board, or the governing authority of the private school, until such time as is specified by the county health department director or administrator.

(10) Each district school board and the governing authority of each private school shall:

(a) Refuse admittance to any child otherwise entitled to admittance to kindergarten, or any other initial entrance into a Florida public or private school, who is not in compliance with the provisions of subsection (4).

(b) Temporarily exclude from attendance any student who is not in compliance with the provisions of subsection (4).

(11) The provisions of this section do not apply to those persons admitted to or attending adult education classes unless the adult students are under 21 years of age.

Section 118. Section 1003.23, Florida Statutes, is created to read:

1003.23 Attendance records and reports.—

(1) The attendance of all public K-12 school students shall be checked each school day in the manner prescribed by rules of the State Board of Education and recorded in the teacher's register or by some approved system of recording attendance. Students may be counted in attendance only if they are actually present at school or are away from school on a school day and are engaged in an educational activity which constitutes a part of the school-approved instructional program for the student.

(2) All officials, teachers, and other employees in public, parochial, religious, denominational, and private K-12 schools, including private tutors, shall keep all records and shall prepare and submit promptly all reports that may be required by law and by rules of the State Board of Education and district school boards. Such records shall include a register of enrollment and attendance and all persons described above shall make these reports therefrom as may be required by the State Board of Education. The enrollment register shall show the absence or attendance of each student enrolled for each school day of the year in a manner prescribed by the State Board of Education. The register shall be open for the inspection by the designated school representative or the district school superintendent of the district in which the school is located. Violation of the provisions of this section shall be a misdemeanor of the second degree, punishable as provided by law. This section shall not apply to home education programs provided in s. 1002.41.

Section 119. Section 1003.24, Florida Statutes, is created to read:

1003.24 Parents responsible for attendance of children; attendance policy.—Each parent of a child within the compulsory attendance age is responsible for the child's school attendance as required by law. The absence of a student from school is prima facie evidence of a violation of this section; however, criminal prosecution under this chapter may not be brought against a parent until the provisions of s. 1003.26 have been complied with. A parent of a student is not responsible for the student's nonattendance at school under any of the following conditions:

(1) WITH PERMISSION.—The absence was with permission of the head of the school;



2004 ch. 2004-41; s. 38

Ch. 2004-40

LAWS OF FLORIDA

Ch. 2004-41

has been completed and a determination has been made as to the feasibility of continuing the use of the Inland Protection Nonmandatory Land Reclamation Trust Fund to guarantee portions of loans under this section.

Section 5. This act shall take effect July 1, 2004.

Approved by the Governor May 12, 2004.

Filed in Office Secretary of State May 12, 2004.

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## CHAPTER 2004-41

### Committee Substitute for Senate Bill No. 340

An act relating to corrections to the school code rewrite; saving s. 17.076(5), F.S., relating to confidentiality of direct deposit records, from reversion on July 1, 2004; amending s. 20.055, F.S.; deleting a reference to the Board of Regents; saving s. 112.215(2), F.S., relating to the definition of the term "employee" for purposes of the deferred compensation program, from reversion on July 1, 2004; amending s. 145.19, F.S.; adding cross-reference; providing for the superintendent's annual performance salary incentive and special qualification salary to be added to the adjusted salary rate; amending s. 159.27, F.S.; redesignating a developmental research school as a lab school; amending s. 212.055, F.S.; deleting references to the Florida Frugal Schools Program; amending s. 216.136, F.S.; deleting reference to Executive Director of the State Board of Community Colleges and State Board of Nonpublic Career Education; providing that the executive director of the Commission for Independent Education is a member of the Workforce Estimating Conference; saving s. 287.064(1), (2), (3), (4), (5), and (6), F.S., relating to the consolidated equipment financing program, from reversion on July 1, 2004; amending s. 316.615, F.S.; replacing reference to the Commissioner of Education with State Board of Education for purpose of rulemaking; amending s. 402.305, F.S.; replacing reference to the Department of Education with State Board of Education for purpose of rulemaking; saving s. 440.38(6), F.S., relating to entities deemed self-insurers for purposes of workers' compensation, from reversion on July 1, 2004; amending s. 445.0124, F.S.; deleting references to the State Board of Community Colleges and the Department of Education; amending ss. 455.2125 and 456.028, F.S.; deleting reference to the State Board of Independent Colleges and Universities, the State Board of Nonpublic Career Education, and the State Board of Community Colleges; requiring consultation with the Commission for Independent Education and the State Board of Education; amending s. 458.347, F.S.; replacing a reference to State Board of Community Colleges with State Board of Education; amending s. 467.009, F.S.; deleting a reference to the licensing authority of the State Board of Nonpublic Career Education; providing licensing authority of the Commission for Independent Education; amending s.

488.01, F.S.; deleting a reference to the State Board of Nonpublic Career Education; providing for licensure by the Commission for Independent Education to operate certain driver's schools; amending s. 489.125, F.S.; replacing a reference to the Commissioner of Education with State Board of Education for purpose of rulemaking; amending s. 784.081, F.S.; redesignating a developmental research school as a lab school; amending ss. 817.566 and 817.567, F.S.; correcting cross-references; deleting a reference to the State Board of Independent Colleges and Universities; providing licensing authority of the Commission for Independent Education; amending s. 943.17, F.S.; replacing a reference to the Department of Education with State Board of Education for purpose of rulemaking; amending s. 1000.04, F.S.; correcting reference to technical centers; amending s. 1001.26, F.S.; correcting a cross-reference; amending s. 1001.32, F.S.; deleting a reference to the rulemaking authority of the Commissioner of Education; amending ss. 1001.372 and 1001.42, F.S.; correcting cross-references; amending s. 1001.47, F.S.; providing a calculation methodology for the salary for elected district school superintendents based on county population; amending s. 1001.50, F.S.; eliminating age as a criterion of compensation for district school superintendents; amending s. 1001.51, F.S.; deleting a reference to patrons; amending ss. 1001.74, 1002.01, and 1002.20, F.S.; correcting cross-references; amending s. 1002.32, F.S.; redesignating a developmental research school as a lab school; correcting a cross-reference; amending s. 1002.33, F.S.; requiring certain compliance for transportation of charter school students; amending s. 1002.42, F.S.; correcting cross-references; amending s. 1002.43, F.S.; providing a reference to regular school attendance; correcting a cross-reference; amending s. 1003.22, F.S.; requiring prekindergarten students to meet school-entry health requirements; amending s. 1003.43, F.S.; deleting a reference to waiver authority of the State Board of Education; correcting the date and name of the Korean Conflict; amending s. 1003.52, F.S.; correcting a cross-reference; amending s. 1003.63, F.S.; deleting reference to the waiver authority of the State Board of Education; amending s. 1004.24, F.S.; deleting an obsolete reference to postaudit of financial accounts; providing for a financial audit pursuant to s. 11.45, F.S.; amending s. 1004.26, F.S.; conforming university oversight of student government; amending s. 1004.445, F.S.; deleting an obsolete reference to postaudit of financial accounts; providing for a financial audit pursuant to s. 11.45, F.S.; amending s. 1005.04, F.S.; correcting punctuation; amending s. 1006.14, F.S.; correcting punctuation; amending s. 1006.21, F.S.; omitting references to regulations; amending s. 1007.21, F.S.; conforming references to parent or guardian; amending s. 1008.22, F.S.; revising provisions relating to passing scores for students taking the FCAT for the first time; amending s. 1008.29, F.S.; eliminating an incorrect cross-reference; amending s. 1008.32, F.S.; requiring the Commissioner of Education to report determinations of probable cause; amending s. 1008.37, F.S.; correcting a reporting date; amending s. 1009.29, F.S.; correcting a reference to the number of state universities; amending s. 1009.531, F.S.; correcting

terminology; amending s. 1009.532, F.S.; providing for a one-time restoration of a scholarship award; amending ss. 1009.534 and 1009.535, F.S.; replacing a reference to the Department of Education with the State Board of Education for purpose of rulemaking; providing for a one-time restoration of a scholarship award; amending s. 1009.536, F.S., relating to the Florida Gold Seal Vocational Scholars award, to conform; amending ss. 1009.58 and 1009.61, F.S.; redesignating a developmental research school as a lab school; amending ss. 1009.765 and 1009.77, F.S.; replacing a reference to the Department of Education with the State Board of Education for purpose of rulemaking; amending s. 1010.215, F.S.; replacing a reference to revenues with funds; amending s. 1010.75, F.S.; providing for disbursement of fees from the Teacher Certification Examination Trust Fund; amending ss. 1011.24 and 1011.47, F.S.; redesignating developmental research schools as lab schools; amending s. 1011.60, F.S.; deleting a nonexistent cross-reference; amending s. 1011.62, F.S.; redesignating a developmental research school as a lab school; deleting a reference to high school competency test; providing a reference to performance grade category; amending s. 1011.70, F.S.; changing references from the Department of Education to the Agency for Health Care Administration; redesignating developmental research schools as lab schools; authorizing lab schools to participate in the Medicaid certified school match program on the same basis as school districts; amending s. 1012.585, F.S.; correcting the name of a trust fund; correcting a cross-reference; amending ss. 1012.62 and 1012.79, F.S.; correcting cross-references; amending s. 1012.795, F.S.; designating an appointed representative of the district school superintendent to receive records concerning certain offenses; amending s. 1012.796, F.S.; correcting a cross-reference; amending s. 1012.98, F.S.; requiring consultation with state university faculty; amending ss. 1013.73 and 1013.74, F.S.; correcting cross-references; repealing s. 445.049(2)(g) and (h), F.S., relating to the executive director of the State Board of Community Colleges and the executive director of the State Board for Career Education as members of the Digital Divide Council; repealing s. 1002.33(24), F.S., relating to the conversion charter school pilot program; repealing s. 1006.57, F.S., relating to certain books furnished by the Clerk of the Supreme Court; repealing s. 1010.10(10), F.S., relating to the repeal of the Florida Uniform Management of Institutional Funds Act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Notwithstanding the provisions of section 6 of chapter 2003-399, Laws of Florida, subsection (5) of section 17.076, Florida Statutes, as amended by section 5 of chapter 2003-399, Laws of Florida, shall not revert on July 1, 2004, and shall continue in full force and effect.

Section 2. Paragraph (a) of subsection (1) of section 20.055, Florida Statutes, is amended to read:

(7) **ATTENDANCE REQUIREMENTS.**—Attendance of a student at a private, parochial, religious, or denominational school satisfies the attendance requirements of ss. 1003.01(13) ~~1003.01(14)~~ and 1003.21(1).

(14) **BUS DRIVER TRAINING.**—Private school bus drivers may participate in a district school board's bus driver training program, if the district school board makes the program available pursuant to s. 1012.45(4) ~~1006.26~~.

Section 37. Subsection (1) of section 1002.43, Florida Statutes, is amended to read:

1002.43 Private tutoring programs.—

(1) Regular school attendance as defined in s. 1003.01(13) ~~1003.01(14)~~ may be achieved by attendance in a private tutoring program if the person tutoring the student meets the following requirements:

(a) Holds a valid Florida certificate to teach the subjects or grades in which instruction is given.

(b) Keeps all records and makes all reports required by the state and district school board and makes regular reports on the attendance of students in accordance with the provisions of s. 1003.23(2).

(c) Requires students to be in actual attendance for the minimum length of time prescribed by s. 1011.60(2).

Section 38. Subsections (4) and (7) of section 1003.22, Florida Statutes, are amended to read:

1003.22 School-entry health examinations; immunization against communicable diseases; exemptions; duties of Department of Health.—

(4) Each district school board and the governing authority of each private school shall establish and enforce as policy that, prior to admittance to or attendance in a public or private school, grades kindergarten through 12, or any other initial entrance into a Florida public or private school, each child present or have on file with the school a certification of immunization for the prevention of those communicable diseases for which immunization is required by the Department of Health and further shall provide for appropriate screening of its students for scoliosis at the proper age. Such certification shall be made on forms approved and provided by the Department of Health and shall become a part of each student's permanent record, to be transferred when the student transfers, is promoted, or changes schools. The transfer of such immunization certification by Florida public schools shall be accomplished using the Florida Automated System for Transferring Education Records and shall be deemed to meet the requirements of this section.

(7) The parents of any child admitted to or in attendance at a Florida public or private school, grades prekindergarten ~~kindergarten~~ through 12, are responsible for assuring that the child is in compliance with the provisions of this section.

Section 79. Effective upon this act becoming a law and applicable retroactive to June 30, 2004, subsection (10) of section 1010.10, Florida Statutes, as created by section 13 of chapter 2003-399, Laws of Florida, is repealed.

Section 80. This act shall take effect upon becoming a law.

Approved by the Governor May 12, 2004.

Filed in Office Secretary of State May 12, 2004.

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## CHAPTER 2004-42

### Committee Substitute for Senate Bill No. 364

An act relating to public K-12 educational instruction; amending s. 1003.429, F.S.; revising course requirements in the college preparatory accelerated high school graduation program; revising course requirements in the career preparatory accelerated high school graduation program; providing students already participating in an accelerated graduation program the right to continue in the current program; establishing requirements for selection of accelerated graduation options; requiring districts to establish a policy for extending the deadline for certain students to choose an accelerated graduation option; authorizing use of alternate assessments; revising requirements for grades that must be earned to participate in the accelerated graduation program; requiring schools to provide specific notices to students and parents if, at the end of the grade 10, the student is not on track to graduate; specifying certain situations in which a student shall be moved from a 3-year to a 4-year graduation program; amending s. 1003.43, F.S., relating to general requirements for high school graduation; authorizing use of alternate assessments; amending s. 1008.22, F.S.; authorizing the SAT and the ACT as alternative assessments to the grade 10 FCAT required for high school graduation if students have attempted to pass the grade 10 FCAT at least 3 times; deleting obsolete language; amending s. 1013.735, F.S.; modifying the formula for the allocation of funds from the Classrooms for Kids appropriation; amending s. 1002.20, F.S.; providing certain rights to parents of students with reading deficiencies; requiring that parents receive understandable information and are consulted regarding a child's academic progress; amending s. 1008.25, F.S.; removing an obsolete date; providing notification of additional information to parents of students who exhibit a substantial reading deficiency; revising certain good cause exemptions from mandatory retention; requiring school districts to provide certain reading interventions to students who have been retained; providing school district requirements relating to remediation of student reading deficiencies, parental notification, implementation of a mid-year promotion policy, provision of instructional options for students, establishment of a Reading Enhancement and

2009 ch. 2009-35, section 6, eff. July 1, 2009

Ch. 2009-34

LAWS OF FLORIDA

Ch. 2009-35

whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

(7) The department shall make and keep reports and records of all cases under this chapter ~~relating to child abuse, abandonment, and neglect and shall preserve the records pertaining to a child and family until 7 years after the last entry was made or until the child who is the subject of the record is 30 is 18 years of age, whichever date is first reached, and may then destroy the records. Department records required by this chapter relating to child abuse, abandonment, and neglect may be inspected only upon order of the court or as provided for in this section.~~

(a) Within 90 days after the child leaves the department's custody, the department shall give a notice to the person having legal custody of the child, or to the young adult who was in the department's custody, which specifies how the records may be obtained.

(b) The department may adopt rules regarding the format, storage, retrieval, and release of such records.

Section 3. This act shall take effect July 1, 2009.

Approved by the Governor May 14, 2009.

Filed in Office Secretary of State May 14, 2009.

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## CHAPTER 2009-35

### Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 1128

An act relating to the education for children in shelter care or foster care and exceptional students; amending s. 39.0016, F.S.; defining the term "surrogate parent"; requiring the Department of Education and district school boards to access the Florida Safe Families Network to obtain information about children known to the Department of Children and Family Services; providing legislative intent; providing conditions and requirements for district school superintendent or court appointment of a surrogate parent for educational decisionmaking for a child who has or is suspected of having a disability; providing requirements for educational placement; providing requirements relating to qualifications and responsibilities of surrogate parents; limiting liability; amending s. 39.202, F.S.; providing for access to certain records to liaisons between school districts and the Department of Children and Family Services; amending s. 39.402, F.S.; requiring access to a child's medical records and educational records if a child is placed in a shelter; authorizing appointment of a surrogate parent; amending s. 39.701, F.S.; requiring the

court and citizen review panel in judicial reviews to consider testimony by a surrogate parent for educational decisionmaking; providing for additional deliberations relating to appointment of an educational decisionmaker; requiring certain documentation relating to the educational setting; amending s. 1003.21, F.S.; providing access to free public education for children known to the department; authorizing a temporary exemption relating to school attendance; amending s. 1003.22, F.S.; authorizing a temporary exemption from school-entry health examinations for children known to the department; amending s. 1003.57, F.S.; providing definitions; requiring the Department of Children and Family Services, the Agency for Health Care Administration, and residential facilities licensed by the Agency for Persons with Disabilities to notify certain school districts following the placement of an exceptional student in a private residential care facility; requiring that an exceptional student be enrolled in school; requiring review of the student's individual educational plan; providing for determining responsibility for educational instruction; requiring the school district to report the student for funding purposes; requiring the Department of Education, in consultation with specified agencies, to develop procedures for the placement of students in residential care facilities; requiring the State Board of Education to adopt rules; requiring a cooperative agreement between the Department of Education and agencies, to be executed on or before January 1, 2010; prescribing conditions and requirements for the agreement; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 39.0016, Florida Statutes, is amended to read:

39.0016 Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Children known to the department" means children who are found to be dependent or children in shelter care.

(b) "Department" means the Department of Children and Family Services or a community-based care lead agency acting on behalf of the Department of Children and Family Services, as appropriate.

(c) "Surrogate parent" means an individual appointed to act in the place of a parent in educational decisionmaking and in safeguarding a child's rights under the Individuals with Disabilities Education Act and this section.

~~(2) The provisions of this section establish goals and not rights. This section does not require the delivery of any particular service or level of service in excess of existing appropriations. A person may not maintain a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents based upon this section becoming law or~~

2. The community-based care agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

~~(i)(h)~~ A projected date likely for the child's return home or other permanent placement.

~~(i)(i)~~ When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

~~(k)(j)~~ For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living.

~~(l)(k)~~ If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

Section 5. Section 5. Paragraph (f) of subsection (1) and paragraph (g) of subsection (4) of section 1003.21, Florida Statutes, are amended to read:

1003.21 School attendance.—

(1)

(f) Homeless children, as defined in s. 1003.01, and children who are known to the department, as defined in s. 39.0016, must have access to a free public education and must be admitted to school in the school district in which they or their families live. School districts shall assist homeless children and children who are known to the department to meet the requirements of subsection (4) and s. 1003.22, as well as local requirements for documentation.

(4) Before admitting a child to kindergarten, the principal shall require evidence that the child has attained the age at which he or she should be admitted in accordance with the provisions of subparagraph (1)(a)2. The district school superintendent may require evidence of the age of any child whom he or she believes to be within the limits of compulsory attendance as provided for by law. If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

(g) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if neither of these is available in the county, by a licensed practicing physician designated by the district school board, which certificate states that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct. A homeless child, as defined in s. 1003.01, and a child who is known to the department, as defined in s. 39.0016, shall be given temporary exemption from this section for 30 school days.

Section 6. Subsection (1) and paragraph (e) of subsection (5) of section 1003.22, Florida Statutes, are amended to read:



1003.22 School-entry health examinations; immunization against communicable diseases; exemptions; duties of Department of Health.—

(1) Each district school board and the governing authority of each private school shall require that each child who is entitled to admittance to kindergarten, or is entitled to any other initial entrance into a public or private school in this state, present a certification of a school-entry health examination performed within 1 year prior to enrollment in school. Each district school board, and the governing authority of each private school, may establish a policy that permits a student up to 30 school days to present a certification of a school-entry health examination. A homeless child, as defined in s. 1003.01, and a child who is known to the department, as defined in s. 39.0016, shall be given a temporary exemption for 30 school days. Any district school board that establishes such a policy shall include provisions in its local school health services plan to assist students in obtaining the health examinations. However, any child shall be exempt from the requirement of a health examination upon written request of the parent of the child stating objections to the examination on religious grounds.

(5) The provisions of this section shall not apply if:

(e) An authorized school official issues a temporary exemption, for a period not to exceed 30 school days, to permit a student who transfers into a new county to attend class until his or her records can be obtained. A homeless child, as defined in s. 1003.01, and a child who is known to the department, as defined in s. 39.0016, shall be given a temporary exemption for 30 school days. The public school health nurse or authorized private school official is responsible for followup of each such student until proper documentation or immunizations are obtained. An exemption for 30 days may be issued for a student who enters a juvenile justice program to permit the student to attend class until his or her records can be obtained or until the immunizations can be obtained. An authorized juvenile justice official is responsible for followup of each student who enters a juvenile justice program until proper documentation or immunizations are obtained.

Section 7. Subsections (3) and (4) are added to section 1003.57, Florida Statutes, to read:

1003.57 Exceptional students instruction.—

(3)(a) For purposes of this subsection and subsection (4), the term:

1. “Agency” means the Department of Children and Family Services or its contracted lead agency, the Agency for Persons with Disabilities, and the Agency for Health Care Administration.

2. “Exceptional student” means an exceptional student, as defined in s. 1003.01, who has a disability.

3. “Receiving school district” means the district in which a private residential care facility is located.

4. “Placement” means the funding or arrangement of funding by an agency for all or a part of the cost for an exceptional student to reside in a

2009; s. 8, ch. 2009-164, eff. July 1, 2009.

Ch. 2009-164

LAWS OF FLORIDA

Ch. 2009-164

## CHAPTER 2009-164

## Council Substitute for House Bill No. 597

An act relating to homelessness; amending s. 420.507, F.S.; conforming a cross-reference; amending s. 420.621, F.S.; revising, providing, and deleting definitions; amending s. 420.622, F.S.; increasing and revising membership on the Council on Homelessness; removing a member from an obsolete organization; correcting the name of a member organization on the council; revising the date of an annual report; creating s. 420.6275, F.S.; creating the Housing First program; providing legislative findings and intent; providing methodology; providing components of the program; providing that local continuums of care that adopt the program be given funding priority; creating s. 420.628, F.S.; providing legislative findings and intent relating to young adults leaving foster care; amending s. 1003.01, F.S.; revising a definition; amending ss. 1003.21 and 1003.22, F.S.; conforming terminology; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (22) of section 420.507, Florida Statutes, is amended to read:

420.507 Powers of the corporation.—The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(22) To develop and administer the State Apartment Incentive Loan program. In developing and administering that program, the corporation may:

(a) Make first, second, and other subordinated mortgage loans including variable or fixed rate loans subject to contingent interest for all State Apartment Incentive Loans provided for in this chapter based upon available cash flow of the projects. The corporation shall make loans exceeding 25 percent of project cost available only to nonprofit organizations and public bodies that which are able to secure grants, donations of land, or contributions from other sources and to projects meeting the criteria of subparagraph 1. Mortgage loans shall be made available at the following rates of interest:

1. Zero to 3 percent interest for sponsors of projects that set aside at least 80 percent of their total units for residents qualifying as farmworkers ~~as defined in this part, or commercial fishing workers as defined in this part,~~ or the homeless as defined in s. ~~420.621~~ 420.621(4) over the life of the loan.

2. Zero to 3 percent interest based on the pro rata share of units set aside for homeless residents if the total of such units is less than 80 percent of the units in the borrower's project.

~~A child who is imprisoned, detained, or in the custody of the state pursuant to a state or federal law is not a homeless child.~~

Section 7. Paragraph (f) of subsection (1) and paragraph (g) of subsection (4) of section 1003.21, Florida Statutes, are amended to read:

1003.21 School attendance.—

(1)

(f) Children and youths who are experiencing homelessness ~~Homeless children, as defined in s. 1003.01,~~ must have access to a free public education and must be admitted to school in the school district in which they or their families live. School districts shall assist such homeless children in meeting ~~to meet~~ the requirements of subsection (4) and s. 1003.22, as well as local requirements for documentation.

(4) Before admitting a child to kindergarten, the principal shall require evidence that the child has attained the age at which he or she should be admitted in accordance with the provisions of subparagraph (1)(a)2. The district school superintendent may require evidence of the age of any child whom he or she believes to be within the limits of compulsory attendance as provided for by law. If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

(g) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if ~~neither of these are not~~ is available in the county, by a licensed practicing physician designated by the district school board, which ~~certificate~~ states that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct. Children and youths who are experiencing homelessness ~~A homeless child, as defined in s. 1003.01,~~ shall be given temporary exemption from this section for 30 school days.

Section 8. Subsection (1) and paragraph (e) of subsection (5) of section 1003.22, Florida Statutes, are amended to read:

1003.22 School-entry health examinations; immunization against communicable diseases; exemptions; duties of Department of Health.—

(1) Each district school board and the governing authority of each private school shall require that each child who is entitled to admittance to kindergarten, or is entitled to any other initial entrance into a public or private school in this state, present a certification of a school-entry health examination performed within 1 year ~~before~~ prior to enrollment in school. Each district school board, and the governing authority of each private school, may establish a policy that permits a student up to 30 school days to present a certification of a school-entry health examination. Children and youths who are experiencing homelessness ~~A homeless child, as defined in s. 1003.01,~~ shall be given a temporary exemption for 30 school days. Any district school board that establishes such a policy shall include provisions in its local school health services plan to assist students in obtaining the

health examinations. However, ~~a any~~ child shall be ~~exempted~~ exempt from the requirement of a health examination upon written request of the parent of the child stating objections to the examination on religious grounds.

(5) The provisions of this section shall not apply if:

(e) An authorized school official issues a temporary exemption, for ~~up to a period not to exceed~~ 30 school days, to permit a student who transfers into a new county to attend class until his or her records can be obtained. ~~Children and youths who are experiencing homelessness~~ A homeless child, as defined in s. 1003.01, shall be given a temporary exemption for 30 school days. The public school health nurse or authorized private school official is responsible for followup of each such student until proper documentation or immunizations are obtained. An exemption for 30 days may be issued for a student who enters a juvenile justice program to permit the student to attend class until his or her records can be obtained or until the immunizations can be obtained. An authorized juvenile justice official is responsible for followup of each student who enters a juvenile justice program until proper documentation or immunizations are obtained.

Section 9. This act shall take effect July 1, 2009.

Approved by the Governor June 11, 2009.

Filed in Office Secretary of State June 11, 2009.

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## CHAPTER 2009-165

### House Bill No. 701

An act relating to notices of proposed property taxes; amending s. 200.069, F.S.; revising the form of the notice of proposed property taxes to include additional information relating to past and proposed millage rates and ad valorem taxes and assessment reductions and exemptions; defining a term; amending ss. 192.0105 and 200.065, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 200.069, Florida Statutes, is amended to read:

200.069 Notice of proposed property taxes and non-ad valorem assessments.—Pursuant to s. 200.065(2)(b), the property appraiser, in the name of the taxing authorities and local governing boards levying non-ad valorem assessments within his or her jurisdiction and at the expense of the county, shall prepare and deliver by first-class mail to each taxpayer to be listed on the current year's assessment roll a notice of proposed property taxes, which notice shall contain the elements and use the format provided in the following form. Notwithstanding the provisions of s. 195.022, no county officer

## Georgia

LexisNexis Academic

OFFICIAL CODE OF GEORGIA ANNOTATED

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\*\*\* Current Through the 2013 Regular Session \*\*\*

\*\*\* Annotations Current Through November 15, 2013 \*\*\*

TITLE 20. EDUCATION

CHAPTER 2. ELEMENTARY AND SECONDARY EDUCATION

ARTICLE 16. STUDENTS

PART 3. HEALTH

[GO TO GEORGIA STATUTES ARCHIVE DIRECTORY](#)

**O.C.G.A. § 20-2-771** (2013)

**§ 20-2-771. Immunization of students**

(a) As used in this Code section, the term:

(1) "Certificate of immunization" means certification by a physician licensed under the laws of this state or by an appropriate official of a local board of health, on a form provided by the Department of Public Health, that a named person has been immunized in accordance with the applicable rules and regulations of the Department of Public Health.

(2) "Facility" means any public or private child care learning center or nursery intended for the care, supervision, or instruction of children.

(3) "Responsible official" means a county school superintendent, a school principal, or a chief operating officer of a school or facility.

(4) "School" means any public or private educational program or institution instructing children at any level or levels, kindergarten through twelfth grade, or children of ages five through 19 if grade divisions are not used.

(b) No child shall be admitted to or attend any school or facility in this state unless the child shall first have submitted a certificate of immunization to the responsible official of the school or facility. The responsible official of any school or facility may grant a 30 calendar day waiver of the certification requirement for a justified reason. The waiver may be extended from the date of first admittance or of first attendance, whichever is earlier, for up to 90 calendar days provided documentation is on file at the school or facility from the local health department

or a physician specifying that an immunization sequence has been started and that this immunization time schedule can be completed within the 90 day waiver period, provided confirmation is received during the waiver period from the health department or physician that immunizations are being received as scheduled, and provided the student under waiver is a transfer student, who is defined as a student who moves from an out-of-state school system to a Georgia school system, or a student entering kindergarten or first grade from out of state. The waiver may not be extended beyond 90 calendar days; and upon expiration of the waiver, the child shall not be admitted to or be permitted to attend the school or facility unless the child submits a certificate of immunization.

(c) The Department of Public Health shall promulgate rules and regulations specifying those diseases against which immunization is required and the standards for such immunizations. The school or facility shall maintain on file the certificates of immunization for all children attending the school or facility. All facilities shall file a report annually with the Department of Public Health. The report shall be filed on forms prepared by the Department of Public Health and shall state the number of children attending the school or facility, the number of children who did not submit certificates of immunization within the waiver period, and the number of children who are exempted from the certification requirement for medical or religious reasons.

(d) If, after examination by the local board of health or any physician licensed under the laws of this state or of any other state having comparable laws governing the licensure of physicians, any child to whom this Code section applies is found to have any physical disability which may make vaccination undesirable, a certificate to that effect issued by the local board of health or such physician licensed under the laws of this or such other state may be accepted in lieu of a certificate of immunization and shall exempt the child from the requirement of obtaining a certificate of immunization until the disability is relieved.

(e) This Code section shall not apply to a child whose parent or legal guardian objects to immunization of the child on the grounds that the immunization conflicts with the religious beliefs of the parent or guardian; however, the immunization may be required in cases when such disease is in epidemic stages. For a child to be exempt from immunization on religious grounds, the parent or guardian must first furnish the responsible official of the school or facility an affidavit in which the parent or guardian swears or affirms that the immunization required conflicts with the religious beliefs of the parent or guardian.

(f) During an epidemic or a threatened epidemic of any disease preventable by an immunization required by the Department of Public Health, children who have not been immunized may be excluded from the school or facility until (1) they are immunized against the disease, unless they present valid evidence of prior

disease, or (2) the epidemic or threat no longer constitutes a significant public health danger.

(g) The requirement of a certificate of immunization shall become effective for all children entering or attending facilities on or after April 7, 1981. The certification requirement shall apply to all children entering or attending schools:

(1) On September 1, 1981, for all such children entering or attending kindergarten or the first, ninth, tenth, eleventh, or twelfth grades, or of the equivalent ages if grade divisions are not used;

(2) On September 1, 1982, for all such children entering or attending all grades, or of all ages if grade divisions are not used.

(h) Any responsible official permitting any child to remain in a school or facility in violation of this Code section, and any parent or guardian who intentionally does not comply with this Code section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00 or by imprisonment for not more than 12 months. The Department of Public Health may adopt rules and regulations for the enforcement of this Code section. The Department of Public Health and the local board of health, or either of them, may institute a civil action in the superior court of the county in which the defendant resides for injunctive relief to prevent a threatened or continuing violation of any provision of this Code section.

**HISTORY:** Ga. L. 1880-81, p. 98, § 1; Ga. L. 1919, p. 288, § 87; Code 1933, § 32-911; Ga. L. 1946, p. 206, § 2; Ga. L. 1957, p. 455, § 1; Ga. L. 1964, p. 499, § 6; Ga. L. 1968, p. 1436, § 1; Ga. L. 1972, p. 1069, § 3; Ga. L. 1973, p. 910, §§ 1, 2; Ga. L. 1978, p. 941, § 1; Ga. L. 1979, p. 1284, § 1; Ga. L. 1981, p. 756, § 1; Ga. L. 1987, p. 319, § 1; Ga. L. 2009, p. 453, § 1-4/HB 228; Ga. L. 2011, p. 705, § 6-3/HB 214; Ga. L. 2013, p. 135, § 12/HB 354.

1979 Ga. L. 1979, p. 1284, § 1 (Approved April 17, 1979)

1284

GENERAL ACTS AND RESOLUTIONS, VOL. I

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EDUCATION—IMMUNIZATION OF SCHOOL CHILDREN  
FROM CONTAGIOUS DISEASES.

Code Section 32-911 Amended.

No. 644 (House Bill No. 705).

AN ACT

To amend Code Section 32-911, relating to the immunization of school children prior to their admission to the public schools, as amended, particularly by an Act approved April 17, 1973 (Ga. Laws 1973, p. 910), so as to provide for a provisional certificate; to change the penalty for violations; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

**Section 1.** Code Section 32-911, relating to the immunization of school children prior to their admission to the public schools, as amended, particularly by an Act approved April 17, 1973 (Ga. Laws 1973, p. 910), is hereby amended by striking said Code Section in its entirety and inserting in lieu thereof a new Code Section 32-911, to read as follows:

“32-911. Immunization of children as a prerequisite to admission. (a) No child shall be admitted to a public school operating in this State unless such child shall first have been immunized from contagious diseases itemized in appropriate rules and regulations promulgated by the State Board of Health. The child's parent or guardian shall furnish the school to which admittance is sought with a certificate of a physician licensed under the laws of the State of Georgia or public health department acknowledging that the child has been immunized before the child shall be admitted.



(b) The county school superintendent or the principal of any school may issue a provisional certificate to the parent or guardian of any child for justifiable reasons. The provisional certificate shall be valid for a period not to exceed thirty days.

(c) The State Board of Health shall determine which diseases are to be included in the rules and regulations promulgated by the local board of health. The State Board of Health shall immediately determine which diseases should be included and shall convey the list of diseases to the local boards of health. The list of diseases may be revised whenever the State Board of Health deems it necessary, and the local boards of health may revise their rules and regulations accordingly.

(d) Any school official permitting any child to remain enrolled in any public school in violation of this Section and any parent or guardian of any child who shall fail to comply with the provisions of this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor.

(e) If, in the discretion of the health authority having jurisdiction or any physician licensed under the laws of the State of Georgia, any child to whom this Section applies shall be deemed to have a physical disability which may contra-indicate vaccination, a certificate to that effect issued by the health authority or physician may be accepted in lieu of a certificate of vaccination. This exemption shall not apply when such disability shall have been removed.

(f) The provisions of this Section shall not apply if the parent or legal guardian of such child objects thereto on the grounds that such immunization conflicts with the religious beliefs of said parent or guardian, provided that immunization may be required in these cases when such disease is in epidemic stages. To comply with the requirements of this subsection, the parent or guardian must furnish the school an affidavit in which said parent or guardian swears under oath that the immunization required by this Chapter conflicts with the religious beliefs of said parent or guardian."

**Section 2.** All laws and parts of laws in conflict with this Act are hereby repealed.

Approved April 17, 1979.

1981 ; Ga. L. 1981, p. 756, § 1

756

GENERAL ACTS AND RESOLUTIONS, VOL. I

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and substituting in lieu thereof a new undesignated paragraph to read as follows:

"The chairman and members of the county boards of education of all counties of this State having a population of not less than 400,000 nor more than 525,000 according to the United States Decennial Census of 1970 or any future such census shall each be paid \$500.00 per month as their entire compensation for services rendered and for attendance at all regular and special meetings of said county boards of education."

**Section 2.** This Act shall become effective on the first day of the month following the month in which it is approved by the Governor or in which it becomes law without his approval.

**Section 3.** All laws and parts of laws in conflict with this Act are hereby repealed.

Approved April 7, 1981.

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EDUCATION—IMMUNIZATION OF CHILDREN  
ENTERING PUBLIC SCHOOLS, ETC.

Code Chapter 32-9 Amended.

No. 540 (House Bill No. 427).

AN ACT

To amend Code Chapter 32-9, relating to county boards of education, as amended, particularly by an Act approved April 17, 1979 (Ga. Laws 1979, p. 1284), so as to require immunization of children entering public and private schools, day-care centers and nurseries; to define terms; to provide for procedures, rules, and regulations; to declare crimes and penalties; to provide exceptions; to amend the "Children and Youth Act," approved March 14, 1963 (Ga. Laws 1963, p. 81), as amended, particularly by an Act approved March 23, 1977

(Ga. Laws 1977, p. 787), so as to delete provisions on the above subjects; to provide for all related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

**Section 1.** Code Chapter 32-9, relating to county boards of education, as amended, particularly by an Act approved April 17, 1979 (Ga. Laws 1979, p. 1284), is hereby amended by striking Code Section 32-911 and inserting in its place a new Code section to read as follows:

"32-911. Immunization. (a) As used in this Code section, the following terms have the following meanings:

(1) 'Certificate of immunization' means immunization shall be deemed to exist when certification is made by a physician licensed under the laws of this state or from an appropriate official of a local board of health, on a form provided by the Department of Human Resources, that a certain named person has been immunized in accordance with the applicable rules and regulations of the Department of Human Resources.

(2) 'Facility' means any public or private day-care center or nursery intended for the care, supervision, or instruction of children.

(3) 'Responsible official' means a school superintendent, a school principal, or a chief operating officer of a school or facility.

(4) 'School' means any public or private educational program or institution instructing children at any level or levels, kindergarten through twelfth grade, or children of ages five through 19 if grade divisions are not used.

(b) No child shall be admitted to or attend any school or facility in this state unless such child shall first have submitted a certificate of immunization to the responsible official of the school or facility. The responsible official of any school or facility may grant a waiver of the certification requirement for a justified reason. The waiver may extend from the date of first admittance or of first attendance, whichever is earlier, for 30 calendar days. The waiver may not be extended beyond 30 calendar days, and upon expiration of the waiver,

the child shall not be admitted to or permitted to attend the school or facility unless the child submits a certificate of immunization.

(c) The Department of Human Resources shall promulgate rules and regulations specifying those diseases against which immunization is required and the standards for such immunizations. The school or facility shall maintain on file the certificates of immunization for all children attending the school or facility. All facilities shall file a report annually with the Department of Human Resources. The report shall be filed on forms prepared by the Department of Human Resources and shall state the number of children attending the school or facility, the number of children who did not submit certificates of immunization within the waiver period, and the number of children who are exempted from the certification requirement for medical or religious reasons.

(d) Any responsible official permitting any child to remain in a school or facility in violation of this Code section and any parent or guardian of any child who intentionally does not comply with the provisions of this Code section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$100.00 or by imprisonment for not more than 12 months. The Department of Human Resources may adopt rules and regulations for the enforcement of this Code section. The Department of Human Resources and the local board of health or either of them may institute a civil action in the superior court of the county in which the defendant resides for injunctive relief to prevent a threatened or continuing violation of any provision of this Code section.

(e) If, after examination by the local board of health or any physician licensed under the laws of this state, or of any other state having comparable laws governing the licensure of physicians, any child to whom this Code section applies is found to have any physical disability which may make vaccination undesirable, a certificate to that effect issued by the local board of health or such physician licensed under the laws of this or such other state may be accepted in lieu of a certificate of immunization and shall exempt the child from having a certificate of immunization until the disability is relieved.

(f) The provisions of this Code section shall not apply to a child whose parent or legal guardian objects to immunization of the child on the grounds that such immunization conflicts with the religious beliefs of the parent or guardian; however, the immunization may be

required in cases when such disease is in epidemic stages. For a child to be exempt from immunizations on religious grounds, the parent or guardian must first furnish the responsible official of the school or facility an affidavit in which the parent or guardian swears or affirms that the immunization required conflicts with the religious beliefs of the parent or guardian.

(g) During an epidemic or a threatened epidemic of any disease preventable by an immunization required by the Department of Human Resources, unimmunized children may be excluded from the school or facility until: (1) They are immunized against the disease, unless they present valid evidence of prior disease; or (2) The epidemic or threat no longer constitutes a significant public health danger.

(h) The certification requirement shall become effective for all children entering or attending facilities upon the effective date of this Act. The certification requirement shall apply to all children entering or attending schools:

(1) On September 1, 1981, for all such children entering or attending kindergarten or the first, ninth, tenth, eleventh or twelfth grades, or of the equivalent ages if grade divisions are not used;

(2) On September 1, 1982, for all such children entering or attending all grades, or of all ages if grade divisions are not used."

**Section 2.** The "Children and Youth Act," approved March 14, 1963 (Ga. Laws 1963, p. 81), as amended, particularly by an Act approved March 23, 1977 (Ga. Laws 1977, p. 787), is hereby amended by striking in its entirety Section 27, relating to immunization of children attending day-care centers.

**Section 3.** This Act shall become effective upon its approval by the Governor or upon its becoming law without his approval.

1987 Ga. L. 1987, p. 319, § 1; (approved April 2, 1987)

GEORGIA LAWS 1987 SESSION

319

**EDUCATION — IMMUNIZATION OF STUDENTS; WAIVER;  
TIME PERIODS; EXTENSIONS.**

Code Section 20-2-771 Amended.

No. 486 (House Bill No. 12).

**AN ACT**

To amend Code Section 20-2-771 of the Official Code of Georgia Annotated, relating to immunization of students, so as to change the period of time for which immunizations may be waived and provide for conditions of such waiver and extension thereof; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
GEORGIA:**

**Section 1.** Code Section 20-2-771 of the Official Code of Georgia Annotated, relating to immunization of students, is amended by striking in its entirety subsection (b) and inserting in its place a new subsection (b) to read as follows:

"(b) No child shall be admitted to or attend any school or facility in this state unless the child shall first have submitted a certificate of immunization to the responsible official of the school or facility. The responsible official of any school or facility may grant a 30 calendar day waiver of the certification requirement for a justified reason. The waiver may be extended from the date of first admittance or of first attendance, whichever is earlier, for up to 90 calendar days provided documentation is on file at the school or facility from the local health department or a physician specifying that an immunization sequence has been started and that this immunization time schedule can be completed within the 90 day waiver period, provided confirmation is received during the waiver period from the health department or physician that immunizations are being received as scheduled, and provided the student under waiver is a transfer student, who is defined as a student who moves from an out-of-state school system to a Georgia school system, or a student entering kindergarten or first grade from out of state. The waiver

may not be extended beyond 90 calendar days; and upon expiration of the waiver, the child shall not be admitted to or be permitted to attend the school or facility unless the child submits a certificate of immunization."

**Section 2.** All laws and parts of laws in conflict with this Act are repealed.

Approved April 2, 1987.

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**COURTS — MAGISTRATE COURTS; CLERKS OF SUPERIOR  
COURTS; FEES; WRITS OF EXECUTION;  
WRITS OF FIERI FACIAS.**

Code Sections 15-6-77, 15-10-47, and 15-10-80 Amended.

No. 487 (House Bill No. 16).

**AN ACT**

To amend Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to magistrate courts, so as to provide that magistrate courts shall charge and collect and transmit to the clerks of superior court the clerks' fees for recording of writs of execution on the general execution docket; to provide that such fees and the fees of the magistrate courts for issuing writs of fieri facias shall be charged and collected contemporaneously with or prior to the issuance of such writs but shall not be charged or collected prior to the entry of judgment; to amend Code Section 15-6-77 of the Official Code of Georgia Annotated, relating to fees of clerks of superior courts, so as to eliminate provisions rendered unnecessary by the foregoing; to provide for related matters; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
GEORGIA:**

2009 Ga. L. 2009, p. 453, § 1-4/HB 228;

GEORGIA LAWS 2009 SESSION

453

OFFICIAL CODE OF GEORGIA ANNOTATED – ESTABLISH DEPARTMENT OF  
HUMAN SERVICES, DEPARTMENT OF BEHAVIORAL HEALTH AND  
DEVELOPMENTAL DISABILITIES, STATE HEALTH OFFICER,  
BEHAVIORAL HEALTH COORDINATING COUNCIL,  
ADVISORY COUNCIL FOR PUBLIC HEALTH,  
AND PUBLIC HEALTH COMMISSION.

No. 102 (House Bill No. 228).

AN ACT

To amend various titles of the Official Code of Georgia Annotated so as to reorganize and reestablish various state health and human services agencies; to reestablish the Department of Community Health; to establish the Department of Human Services and the Department of Behavioral Health and Developmental Disabilities; to reassign various functions to the new agencies; to provide for transition to the new agencies; to provide for a board for each agency; to reconstitute the Board of Community Health; to abolish the Board of Human Resources; to establish the position of State Health Officer; to establish the Behavioral Health Coordinating Council; to establish the Advisory Council for Public Health; to establish the Public Health Commission; to provide for inspection warrants for residential child care licensing; to revise a provision in state health planning; to provide for criminal background checks for employees of the Department of Behavioral Health and Developmental Disabilities; to repeal the automatic sunset provision for the State Commission on Family Violence; to amend various titles for purposes of conformity; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

Department of Community Health.

SECTION 1-1.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising and redesignating Chapter 5A, relating to the Department of Community Health, and revising Chapter 2, relating to the Department of Human Resources, as follows:



## CHAPTER 2

## 31-2-1.

Given the growing concern and complexities of health issues in this state, it is the intent of the General Assembly to create a Department of Community Health dedicated to health issues. The Department of Community Health shall safeguard and promote the health of the people of this state and is empowered to employ all legal means appropriate to that end. Illustrating, without limiting, the foregoing grant of authority, the department is empowered to:

- (1) Serve as the lead planning agency for all health issues in the state to remedy the current situation wherein the responsibility for health care policy, purchasing, planning, and regulation is spread among many different agencies;
- (2) Permit the state to maximize its purchasing power and to administer its operations in a manner so as to receive the maximum amount of federal financial participation available in expenditures of the department;
- (3) Minimize duplication and maximize administrative efficiency in the state's health care systems by removing overlapping functions and streamlining uncoordinated programs;
- (4) Allow the state to develop a better health care infrastructure that is more responsive to the consumers it serves while improving access to and coverage for health care;
- (5) Focus more attention and departmental procedures on the issue of wellness, including diet, exercise, and personal responsibility;
- (6) Provide epidemiological investigations and laboratory facilities and services in the detection and control of disease, disorders, and disabilities and to provide research, conduct investigations, and disseminate information concerning reduction in the incidence and proper control of disease, disorders, and disabilities;
- (7) Forestall and correct physical, chemical, and biological conditions that, if left to run their course, could be injurious to health;
- (8) Regulate and require the use of sanitary facilities at construction sites and places of public assembly and to regulate persons, firms, and corporations engaged in the rental and service of portable chemical toilets;
- (9) Isolate and treat persons afflicted with a communicable disease who are either unable or unwilling to observe the department's rules and regulations for the suppression of such disease and to establish, to that end, complete or modified quarantine, surveillance, or isolation of persons and animals exposed to a disease communicable to man;
- (10) Procure and distribute drugs and biologicals and purchase services from clinics, laboratories, hospitals, and other health facilities and, when authorized by law, to acquire and operate such facilities;
- (11) Cooperate with agencies and departments of the federal government and of the state by supplying consultant services in medical and hospital programs and in the health aspects of civil defense, emergency preparedness, and emergency response;

**SECTION 1-2.**

Said title is further amended by revising Code Section 31-1-1, relating to definitions relative to health generally, as follows:

'31-1-1.

Except as specifically provided otherwise, as used in this title, the term:

- (1) 'Board' means the Board of Community Health.
- (2) 'Commissioner' means the commissioner of community health.
- (3) 'Department' means the Department of Community Health.'

**SECTION 1-3.**

Said title is further amended by adding a new Code section to read as follows:

'31-1-10.

- (a) The position of State Health Officer is created. The commissioner of community health or the director of the Division of Public Health of the Department of Community Health shall be the State Health Officer, as designated by the Governor.
- (b) The State Health Officer shall perform such health emergency preparedness and response duties as assigned by the Governor.'

**SECTION 1-4.**

The following Code sections of the Official Code of Georgia Annotated are amended by replacing "Department of Human Resources" wherever it occurs with "Department of Community Health":

- (1) Code Section 4-4-69, relating to regulation of manufacture and use of disease vectors in livestock;
- (2) Code Section 4-10-10, relating to the joint regulation of the sale or transportation of exotic or pet birds;
- (3) Code Section 10-1-393, relating to unfair or deceptive practices in consumer transactions which are deemed unlawful;
- (4) Code Section 12-2-8, relating to promulgation of minimum standards and procedures for protection of natural resources, environment, and vital areas of the state;
- (5) Code Section 12-3-9, relating to adoption and promulgation by the Board of Natural Resources of rules and regulations regarding parks, historic sites, and recreational areas;
- (6) Code Section 12-5-175, relating to fluoridation of public water systems;
- (7) Code Section 12-8-1, relating to notice of denial of individual sewage disposal permits;
- (8) Code Section 15-21-142, relating to the establishment of the Brain and Spinal Injury Trust Fund Commission;
- (9) Code Section 16-6-13.1, relating to testing for sexually transmitted diseases;
- (10) Code Section 16-12-141, relating to when abortion is legal;
- (11) Code Section 17-10-15, relating to AIDS transmitting crimes;

- (12) Code Section 19-3-41, relating to preparation by the Department of Human Resources of a marriage manual on family planning and other material;
- (13) Code Section 20-2-142, relating to prescribed courses in elementary and secondary schools on alcohol, tobacco, and drug use;
- (14) Code Section 20-2-143, relating to sex education and AIDS prevention instruction in elementary and secondary schools;
- (15) Code Section 20-2-144, relating to mandatory instruction in elementary and secondary schools concerning alcohol and drug use;
- (16) Code Section 20-2-770, relating to rules and regulations for nutritional screening and eye, ear, and dental examinations of students;
- (17) Code Section 20-2-771, relating to immunization of students in elementary and secondary education;
- (18) Code Section 20-2-772, relating to rules and regulations for screening of students for scoliosis;
- (19) Code Section 24-9-40, relating to when medical information may be released by a physician, hospital, health care facility, or pharmacist;
- (20) Code Section 24-9-47, relating to disclosure of AIDS confidential information;
- (21) Code Section 25-3-6, relating to the effect of certain laws relating to local fire departments on the powers and duties of other officials and departments;
- (22) Code Section 26-2-371, relating to permits required for food service establishments;
- (23) Code Section 26-2-372, relating to the issuance of permits for food service establishments;
- (24) Code Section 26-2-373, relating to promulgation of rules, regulations, and standards by the Department of Human Resources and county boards of health for food service establishments;
- (25) Code Section 26-2-374, relating to contents and posting of notices relating to assistance to persons choking;
- (26) Code Section 26-2-375, relating to enforcement of laws regarding the regulation of food service establishments;
- (27) Code Section 26-2-376, relating to review of final order or determination by Department of Human Resources regarding regulation of a food service establishment;
- (28) Code Section 26-2-377, relating to penalties for violation of laws regarding the regulation of food service establishments;
- (29) Code Section 26-3-18, relating to assistance in enforcement from Department of Agriculture or Department of Human Resources with respect to standards, labeling, and adulteration of drugs and cosmetics;
- (30) Code Section 26-4-85, relating to patient counseling by a pharmacist;
- (31) Code Section 26-4-116, relating to emergency service providers with respect to dangerous drugs and controlled substances;
- (32) Code Section 26-4-172, relating to license requirements under the "Nuclear Pharmacy Law";

**HEALTH – HEMOPHILIA ADVISORY BOARD  
ACT; CREATE DEPARTMENT, BOARD,  
AND COMMISSIONER OF PUBLIC  
HEALTH.**

No. 244 (House Bill No. 214).

**AN ACT**

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to create the Hemophilia Advisory Board; to provide for a short title; to provide for legislative findings; to provide for duties, reporting, membership, and the selection of officers; to establish the Department of Public Health; to reassign functions of the Division of Public Health of the Department of Community Health to the Department of Public Health; to provide for transition to the new agency; to create a Board of Public Health and a commissioner of public health; to amend various titles for purposes of conformity; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**PART I**

Hemophilia Advisory Board Act.

**SECTION 1-1.**

Parts I and II of this Act shall be known and may be cited as the "Hemophilia Advisory Board Act."

**SECTION 1-2.**

The General Assembly finds that hemophilia and other bleeding disorders are devastating health conditions that can cause serious financial, social, and emotional hardships for patients and their families. Hemophilia and other bleeding disorders are incurable, so appropriate lifetime care and treatment are necessities for maintaining optimum health. Advancements in drug therapies are allowing individuals greater latitude in managing their conditions, fostering independence, and minimizing chronic complications. As a result, individuals are living longer and are healthier and more productive. However, the rarity of these disorders coupled with the delicate processes of producing clotting factor concentrates makes treating these disorders extremely costly. It is the intent of the General Assembly to establish an advisory board to provide expert advice to the state on health and insurance policies, plans, and programs that impact individuals with hemophilia and other bleeding disorders.

- (9) Code Section 49-5-225, relating to local interagency committees.

#### **SECTION 6-2.**

The following Code sections of the Official Code of Georgia Annotated are amended by replacing "Division of Public Health" wherever it occurs with "Department of Public Health":

- (1) Code Section 31-41-11, relating to legislative findings relative to the "Childhood Lead Exposure Control Act"; and
- (2) Code Section 31-41-19, relating to rules and regulations to implement the "Childhood Lead Exposure Control Act."

#### **SECTION 6-3.**

The following Code sections of the Official Code of Georgia Annotated are amended by replacing "Department of Community Health" wherever it occurs with "Department of Public Health":

- (1) Code Section 4-4-69, relating to regulation of manufacture and use of disease vectors in livestock;
- (2) Code Section 4-10-10, relating to the joint regulation of the sale or transportation of exotic or pet birds;
- (3) Code Section 12-2-8, relating to promulgation of minimum standards and procedures for protection of natural resources, environment, and vital areas of the state;
- (4) Code Section 12-3-9, relating to adoption and promulgation by the Board of Natural Resources of rules and regulations regarding parks, historic sites, and recreational areas;
- (5) Code Section 12-5-175, relating to fluoridation of public water systems;
- (6) Code Section 12-8-1, relating to notice of denial of individual sewage disposal permits;
- (7) Code Section 12-8-41, relating to permits issued by the Department of Natural Resources for land disposal sites;
- (8) Code Section 15-11-66.1, relating to disposition of a child committing delinquent act constituting AIDS transmitting crime;
- (9) Code Section 15-21-142, relating to the establishment of the Brain and Spinal Injury Trust Fund Commission;
- (10) Code Section 16-6-13.1, relating to testing for sexually transmitted diseases;
- (10.1) Subsection (d) of Code Section 16-12-141, relating to when abortion is legal;
- (10.2) Code Section 16-12-141.1, relating to disposal of aborted fetuses, except for paragraphs (1) and (3) of subsection (d) and the second reference in subsection (h);
- (11) Code Section 17-10-15, relating to AIDS transmitting crimes;
- (12) Code Section 19-3-35.1, relating to AIDS brochures for applicants for a marriage license;
- (13) Code Section 19-3-40, relating to blood tests for sickle cell disease;

- (14) Code Section 19-3-41, relating to preparation by the Department of Human Resources of a marriage manual on family planning and other material;
- (15) Code Section 19-15-1, relating to definitions relative to child abuse;
- (16) Code Section 20-2-142, relating to prescribed courses in elementary and secondary schools on alcohol, tobacco, and drug use;
- (17) Code Section 20-2-143, relating to sex education and AIDS prevention instruction in elementary and secondary schools;
- (18) Code Section 20-2-144, relating to mandatory instruction in elementary and secondary schools concerning alcohol and drug use;
- (19) Code Section 20-2-260, relating to capital outlay funds generally;
- (20) Code Section 20-2-770, relating to rules and regulations for nutritional screening and eye, ear, and dental examinations of students;
- (21) Code Section 20-2-771, relating to immunization of students in elementary and secondary education;
- (22) Code Section 20-2-772, relating to rules and regulations for screening of students for scoliosis;
- (23) Code Section 20-2-778, relating to required information to parents of students regarding meningococcal meningitis;
- (24) Reserved;
- (25) Code Section 25-3-6, relating to the effect of certain laws relating to local fire departments on the powers and duties of other officials and departments;
- (26) Code Section 26-2-371, relating to permits required for food service establishments;
- (27) Code Section 26-2-372, relating to the issuance of permits for food service establishments;
- (28) Code Section 26-2-373, relating to promulgation of rules, regulations, and standards by the Department of Community Health and county boards of health for food service establishments;
- (29) Code Section 26-2-374, relating to contents and posting of notices relating to assistance to persons choking;
- (30) Code Section 26-2-375, relating to enforcement of laws regarding the regulation of food service establishments;
- (31) Code Section 26-2-376, relating to review of final order or determination by Department of Community Health regarding regulation of a food service establishment;
- (32) Code Section 26-2-377, relating to penalties for violation of laws regarding the regulation of food service establishments;
- (33) Code Section 26-3-18, relating to assistance in enforcement from Department of Agriculture or Department of Community Health with respect to standards, labeling, and adulteration of drugs and cosmetics;
- (34) Code Section 26-4-116, relating to emergency service providers with respect to dangerous drugs and controlled substances;

## Hawaii

LexisNexis Academic

MICHIE'S HAWAII REVISED STATUTES ANNOTATED

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\*\*\* This document is current through the 2013 Second Special Session \*\*\*

DIVISION 1. GOVERNMENT

TITLE 18 Education

CHAPTER 302A Education

PART IV. Provisions Affecting System Structure

C. Organization

[Go to the Hawaii Code Archive Directory](#)

**HRS § 302A-1156 (2013)**

**§ 302A-1156. Exemptions.**

A child may be exempted from the required immunizations:

(1) If a licensed physician or physician assistant certifies that the physical condition of the child is such that immunizations would endanger the child's life or health; or

(2) If any parent, custodian, guardian, or any other person in loco parent is to a child objects to immunization in writing on the grounds that the immunization conflicts with that person's bona fide religious tenets and practices. Upon showing the appropriate school official satisfactory evidence of the exemption, no certificate or other evidence of immunization shall be required for entry into school.

**HISTORY:** § 1996, c 89, pt of § 2; am § 2009, c 151, § 9, effective June 25, 2009.

1996 : L 1996, c 89, pt of § 2

ACT 89

**Note**

I. Edited pursuant to HRS §23G-16.5.

**ACT 89**

S.B. NO. 2446

A Bill for an Act Relating to the Recodification of the Education Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the traditional centralized school system is no longer the best model to meet the broad range of needs of our diverse student population. Thus, the legislature has begun a process of systemic reform, a "top-down support for bottom-up reforms" to provide individual schools with the flexibility and autonomy to develop and implement alternative administrative and instructional frameworks that will lead to better quality education and higher student performance. Our intent is to empower individual schools to be directly accountable for student achievement and to "put students first".

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER  
EDUCATION**

**PART I. GENERAL PROVISIONS**

**§ -201 Definitions.** As used in this chapter, the following terms have the following meanings unless the context indicates otherwise:

"Air conditioning" means any mechanical device that cools or heats air.

"Board" means the board of education.

"Cafeteria workers" includes all employees of any public school cafeteria other than the cafeteria manager.

"Councilor" means a member of a district school advisory council.

"Department" means the department of education.

"Early education" means a developmentally appropriate early childhood development and education program for children from birth to eight years of age.

"EDN 100" means the budget program identification number for the school-based budgeting program within the department.

"Educational officers" includes principals, vice-principals, and professional employees of the state and district offices of the department, except those employees in the classified service.

"Exceptional children" includes:

- (1) Persons under twenty years of age who deviate from the so-called normal person in physical, mental, social, or emotional characteristics or abilities to such an extent that specialized training, techniques, and equipment are required to enable these persons to attain the maximum of their abilities or capacities; provided that "exceptional children" shall not include "gifted and talented children";
- (2) Persons under twenty years of age who by reason of physical defects cannot attend the regular public school classes with normal children; and
- (3) Persons under twenty years of age who are certified by a licensed physician eligible for membership in the state medical society as being



**ACT 89**

emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods.

"Gifted and talented children" means students residing in the State who are of compulsory school age and are enrolled in, and attending, a public school, and whose superior performance or potential indicates exceptional ability or talent. This ability or talent may occur singly in or in combination with any of the following areas: intellectual, creative or specific academic abilities, leadership capabilities, psychomotor abilities, or abilities in the performing or visual arts.

"Incumbent teachers" refers to teachers presently in service or on authorized leaves from the department.

"Job-sharing" means the voluntary sharing of a full-time, permanent employee's position with another employee, with each employee working one-half of the total number of hours of work required per week and performing one-half of the work required of the respective full-time position, and with each employee receiving one-half of the salary to which each employee is respectively entitled and at least one-half of each employee benefit afforded to full-time employees.

"Private trade, vocational, or technical school" means any plan or method used by any person or persons, firm, or any other organization or corporation for giving instruction in any form or manner in any trade, occupation, or vocation for a consideration, reward, or promise of whatever nature, including correspondence schools located within the State, except as follows:

- (1) Schools maintained, or classes conducted, by employers for their own employees where no fee or tuition is charged;
- (2) Courses of instruction given by any fraternal society, benevolent order, or professional organization to its members, which courses are not operated for profit;
- (3) Flying schools qualified under the Federal Aviation Administration;
- (4) Classes conducted for less than five students at one and the same time;
- (5) Classes or courses of instruction that are conducted for twenty or fewer class sessions during any twelve month period;
- (6) Avocational, hobby, recreation, or health classes or courses;
- (7) Courses of instruction on religious subjects given under the auspices of a religious organization; and
- (8) Schools registered by the department of commerce and consumer affairs or by boards and commissions placed in the department of commerce and consumer affairs for administrative purposes.

"Public office" excludes notaries public, reserve police officers, officers of emergency organizations for civilian defense or disaster relief, or county charter commissions.

"Public schools" means all academic and noncollege type schools established and maintained by the department in accordance with law. All other academic and noncollege type schools are "private schools", irrespective of the hours during which the sessions take place.

"Regional administrative unit" means a grouping of complexes established by the department for administrative support and organizational purposes.

"School-based budget flexibility" means an operating budget preparation and allocation process that provides maximum flexibility to individual schools, complexes, and learning support centers in the preparation and execution of their operating budgets.

"School/community-based management system" means a method of educational management that diffuses educational decisionmaking to involve or secure the input of those persons directly affected by the decision to be made at the school level, and encourages school-initiated methods for achieving educational goals established statewide by the board.

**ACT 89**

"School complex" means a grouping of schools established by the department for instructional, administrative, and organizational purposes.

"Special facilities" includes buildings, equipment, and materials; transportation; boarding homes; and personnel qualified to work with exceptional children.

"Special services" means physiotherapy, or any form of muscle training, speech training, occupational therapy, vocational training, psychological evaluation, or any of them.

"Student-centered schools" means the implementation of alternative frameworks with regard to curriculum; facilities management; instructional approach; length of the school day, week, or year; and personnel management.

"Superintendent" means the superintendent of education.

"Teacher" means a person whose duties in the public educational system are primarily teaching or instruction of students or related activities centered primarily on students and who is in close and continuous contact with students, and shall include but not be limited to classroom teachers, school librarians, counselors, registrars, and special education teachers.

"Vandalism" includes, but is not limited to, mischievous or malicious destruction of property, such as breakage of windows, lockers, and doors.

## **PART II. PROVISIONS AFFECTING STUDENTS**

### **A. Student Performance Standards**

**§ -301 Statewide performance standards.** (a) The board shall establish statewide performance standards and the means to assess the standards based upon the recommendations in the final report of the performance standards commission established pursuant to Act 334, Session Laws of Hawaii 1991; provided that the board may review and modify the performance standards, as the board deems necessary, to reflect the needs of public school students and educational goals adopted by the board.

(b) The board shall appoint a performance standards review commission, to be convened at the beginning of the 1997-1998 school year, and every four years thereafter, to assess the effectiveness of the performance standards. The commission shall include representatives of the Hawaii State Parent, Teacher, Student Association; the Hawaii State Student Council; the superintendent; the dean of the college of education of the University of Hawaii; and the professional education community. The commission may request the assistance of such department or school staff as may be necessary to facilitate its review.

(c) The commission shall review the implementation of the performance standards by the board and the schools to determine whether the standards should be modified. In making this determination, the commission shall seek public input by holding public forums to discuss the implementation and effectiveness of the performance standards. The commission shall submit a report of its findings and recommendations regarding the effectiveness of the standards and the need for modification of the standards to the board and the legislature prior to the convening of the 1999 regular session. The board shall consider and implement the modifications beginning with the 1999-2000 school year.

**§ -302 Student assessment waiver.** Any school electing to participate in school/community-based management may develop and implement its own student assessment mechanisms; provided that the board shall include the results of the assessments in the educational status report to the legislature and the governor required in section -1106.

**ACT 89**

(c) The principal of the school in which the vandalism occurred shall make or order an investigation of the vandalism. If after the investigation, the principal has reasonable cause to believe that a specific pupil is responsible for the vandalism, the principal shall schedule a conference with the pupil and the pupil's parents or guardian. Except for the principal of the school in which the vandalism occurred, the pupil and the parents or guardian, no other person shall be permitted to be in the conference for any reason.

(d) At the conference, the principal of the school in which the vandalism occurred shall present the findings of the investigation and the requirements of restitution to the pupil and parents or guardian.

If the pupil and the parents or guardian agree with the findings of the principal and the manner in which restitution is to be made, the principal and the pupil and parent or guardian shall execute a written agreement which shall specify the manner in which restitution is to be made.

Agreements shall be made only for damages that do not exceed \$3,500.

If restitution is made in this fashion, then no information about the investigation, conference, and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the findings made by the principal, the principal shall report the findings, including all the records and documents regarding the investigation and conference, to the district superintendent, who shall review the findings and may refer the matter to the attorney general for any further action pursuant to section 577-3.

(e) If the damages exceed \$3,500, the principal shall report the matter to the district superintendent, who shall refer the matter to the attorney general for any further action pursuant to section 577-3.

(f) Notwithstanding any provisions in this section to the contrary, the State may elect to bring any appropriate action for the recovery of all damages to school properties. Nothing in this section shall limit the right of the State to bring an action against any person to recover these damages.

**§ -1256 Immunization upon entering school; tuberculosis clearance.**

(a) No child shall attend any school in the State unless the child presents to the appropriate school official certification from a licensed physician stating that the child has received immunizations against communicable diseases as required by the department of health.

(b) No child shall be admitted to attend any school for the first time in the State unless the child presents to the appropriate school official certification from a licensed physician or other authorized personnel stating the child has received a tuberculin test or x-ray and is free from tuberculosis in a communicable form.

**§ -1257 Provisional entrance to school.**

(a) A child may enter school provisionally upon submitting written proof from a licensed physician or an authorized representative of the department of health stating that the child is in the process of receiving the required immunizations. Further certification showing that the required immunizations have been completed must be submitted to the appropriate school official no later than three months after the child first entered the school.

(b) Provisional entrance to school may be suspended by the department of health when there is danger of an epidemic from any of the communicable diseases for which immunization is required.

**§ -1258 Exemptions.**

A child may be exempted from the required immunizations:

**ACT 89**

- (1) If a licensed physician certifies that the physical condition of the child is such that immunizations would endanger the child's life or health; or
- (2) If any parent, custodian, guardian, or any other person in loco parentis to a child objects to immunization in writing on the grounds that the immunization conflicts with that person's bonafide religious tenets and practices. Upon showing the appropriate school official satisfactory evidence of the exemption, no certificate or other evidence of immunization shall be required for entry into school.

**§ -1259 Exemptions from immunization; not recognized; epidemic conditions.** If at any time there is, in the opinion of the department of health, danger of an epidemic from any of the communicable diseases for which immunization is required under sections -1256 to -1265, no exemption from immunization against the disease shall be recognized. Quarantine shall be a legal alternative to immunization.

**§ -1260 Immunization of indigent children.** The department of health shall provide all immunizations and tuberculin tests to comply with sections -1256 to -1265, as far as public funds will permit, to each child whose parents, guardians, or custodians cannot afford to have the child immunized or tested for tuberculosis, and who have not been exempted under section -1258. Nothing in this section shall preclude the department of health from distributing immunizations and vaccines to physicians or other authorized persons as required by law or by the rules of the department of health.

**§ -1261 Physical examination required.** No child shall be admitted to any school for the first time in the State unless the child presents to the appropriate school official a certification from a licensed physician stating that the child has undergone a physical examination. The physical examination shall be performed within a year of the date of entry into school. A child may enter school provisionally upon submitting written proof from a licensed physician or other authorized representative of the department of health stating that the child is in the process of undergoing a physical examination. Further certification showing that the required physical examination has been completed must be submitted to the appropriate school official no later than three months after the child first entered the school.

**§ -1262 Health certificates.** The department of education shall provide health certificate forms for immunization and physical examination to the schools, private physicians, and authorized personnel of the department of health. Any immunization record signed by a licensed physician may be accepted by the appropriate school official as certification of immunization if the information is transferred to the health certificate form and verified by the appropriate school official.

**§ -1263 Notification for noncompliance.** If a child does not complete the immunizations required under section -1256 or the physical examination required under section -1261 within the three-month period provided after provisional entry into school, the department of education shall refer the child to the department of health. The department of health shall cause a notice to be sent to the parent of the child stating that if the required immunizations or physical examination is not completed within thirty days of the date of the notice, the child shall not be admitted to school.

**§ -1264 Rules.** The department of health shall adopt rules under chapter 91 relating to immunization and tuberculin testing under sections -1256

2009 am L 2009, c 151, § 9, effective June 25, 2009.

## ACT 151

### PART III

SECTION 7. This Act shall take effect on June 29, 2009, and shall be repealed on June 30, 2011.

(Approved June 24, 2009.)

#### Note

1. Act 162.

## ACT 151

S.B. NO. 1142

A Bill for an Act Relating to Physician Assistants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that certain statutes regarding physician assistants are outdated or obsolete. Currently, certain Hawaii statutes omit physician assistants from the definition of health care professionals who may provide care, be indemnified, or sign forms. The legislature further finds that physician assistants provide a wide variety of health care services to the people in this State. Amending certain statutes to authorize increased participation by licensed physician assistants in certain procedures and under certain circumstances will enable improved access to health care services, expedite the processing of paperwork, and provide optimal care at the initial point of access for Hawaii patients, especially in rural and underserved areas.

The purpose of this Act is to improve patient access to medical care by clarifying the procedure and circumstances under which licensed physician assistants may provide services, and by allowing them to render emergency care services with limited liability pursuant to Good Samaritan laws.

SECTION 2. Chapter 453, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§453- Physician assistant; authority to sign documents.** Any physician assistant who holds a current, valid, and permanent license to practice medicine pursuant to this chapter, and who is under the supervision of a licensed physician or osteopathic physician, shall have the authority to sign the following documents:

- (1) Certification of psychiatric medical condition of the parents of a child applicant for aid from the temporary assistance for needy families program;
- (2) Evaluation forms for Hansen's disease patients;
- (3) Orders for physical therapy and plans of care;
- (4) Pharmacist orders to assist in monitoring and management of anti-coagulation anemia and atrial fibrillation;
- (5) Orders for speech therapy and plans of care;
- (6) Applications for bracelets indicating compassionate care only;
- (7) Admissions applications for foster homes;
- (8) Dietary consultations forms; and
- (9) Medicaid application forms for nursing care facility admission.”

## ACT 151

SECTION 9. Section 302A-1156, Hawaii Revised Statutes, is amended to read as follows:

**“[H]§302A-1156[H] Exemptions.** A child may be exempted from the required immunizations:

- (1) If a licensed physician or physician assistant certifies that the physical condition of the child is such that immunizations would endanger the child's life or health; or
- (2) If any parent, custodian, guardian, or any other person in loco parentis to a child objects to immunization in writing on the grounds that the immunization conflicts with that person's bona fide religious tenets and practices. Upon showing the appropriate school official satisfactory evidence of the exemption, no certificate or other evidence of immunization shall be required for entry into school.”

SECTION 10. Section 302A-1164, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) The student's parent or guardian shall provide the department with:
- (1) Written authorization for the self-administration of medication or the emergency administration of glucagon;
  - (2) In the case of self-administration of medication, written certification from the student's physician or physician assistant stating that the student:
    - (A) Has asthma, anaphylaxis, or another potentially life-threatening illness; and
    - (B) Is capable of, and has been instructed in, the proper method of self-administration of medication; and
  - (3) In the case of emergency administration of glucagon to a student with diabetes, written certification from the student's physician or physician assistant stating that the student has [~~physician's~~] medical orders that glucagon may be administered by a volunteer.”

SECTION 11. Section 321-23.3, Hawaii Revised Statutes, is amended to read as follows:

**“[H]§321-23.3[H] Volunteer emergency medical disaster response personnel.**

(a) All volunteer emergency medical disaster response personnel including:

- (1) Physicians;
- (2) Psychologists;
- (3) Nurses;
- (4) Emergency medical technicians;
- (5) Social workers; [~~and~~]
- (6) Mobile intensive care technicians; and
- (7) Physician assistants

licensed in the State, or employed by a health care facility, while engaged in the emergency response to a mass casualty event or disaster condition, including participation during periods of mass casualty and disaster management training, shall be deemed state employees or county employees, as the case may be, and shall have the powers, duties, rights, and privileges of such in the performance of their duties as prescribed by or under the authority of the governor or a county.

(b) For the purposes of this section, any physician or physician assistant licensed in the State having privileges and credentials at public or private health care facilities licensed in the State, shall be deemed as having credentials with

## Idaho

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### IDAHO CODE

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\*\*\* Statutes current through the 2013 Session \*\*\*

### GENERAL LAWS

#### TITLE 39. HEALTH AND SAFETY

#### CHAPTER 48. IMMUNIZATION

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#### Idaho Code § 39-4802 (2013)

#### § 39-4802. Exemptions

(1) Any minor child whose parent or guardian has submitted to school officials a certificate signed by a physician licensed by the state board of medicine stating that the physical condition of the child is such that all or any of the required immunizations would endanger the life or health of the child shall be exempt from the provisions of this chapter.

(2) Any minor child whose parent or guardian has submitted a signed statement to school officials stating their objections on religious or other grounds shall be exempt from the provisions of this chapter.

**HISTORY:** I.C., [§ 39-4802] § 39-4602, as added by 1978, ch. 240, § 1, p. 516; am. and redesiɡ. 1979, ch. 313, § 2, p. 845.

1978 : I.C., [§ 39-4802] § 39-4602, as added by 1978, ch. 240, § 1, p. 516

516

IDAHO SESSION LAWS

C. 240 '78

## CHAPTER 240

(H.B. No. 410)

### AN ACT

RELATING TO REQUIREMENTS FOR IMMUNIZATION AND SCHOOL ATTENDANCE; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION THERETO OF A NEW CHAPTER 46, TITLE 39, IDAHO CODE, TO PROVIDE THAT A CHILD MAY ATTEND SCHOOL UPON PRESENTATION OF CERTIFICATION THAT HE HAS RECEIVED IMMUNIZATION AS REQUIRED BY THIS CHAPTER, AND TO PROVIDE FOR EXEMPTIONS FROM IMMUNIZATION FOR CHILDREN; AND PROVIDING SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 46, Title 39, Idaho Code, and to read as follows:

### CHAPTER 46 IMMUNIZATION

39-4601. IMMUNIZATION REQUIRED. Except as provided in section 39-4602, Idaho Code, any child in Idaho of the age of compulsory school attendance may attend any public, private or parochial elementary or secondary school operating in this state, provided that within sixty (60) days of the first admission, the parent or guardian shall provide a statement to the school authorities regarding the child's immunity to certain childhood diseases. This statement shall provide a certificate signed by a physician licensed by the state board of medicine or from an authorized representative of the district health department, that such child has received, or is in the process of receiving immunizations as specified by the board of health and welfare, or can effectively demonstrate, through verification in a form approved by the department of health and welfare, immunity gained through prior contraction of the disease.

The parent or guardian of any child who is attending school for other than the first time during the school term beginning in 1978, shall be required to comply with the provisions of this chapter prior to the beginning of the 1979 school year.

Immunizations required and the manner and frequency of their administration shall be as prescribed by the state



board of health and welfare and shall conform to recognized standard medical practices in the state. The state board of health and welfare, in cooperation with the state board of education and the Idaho school boards association, shall promulgate appropriate rules and regulations for the enforcement of the required immunization program and specify reporting requirements of schools, pursuant to the provisions of chapter 52, title 67, Idaho Code.

39-4602. EXEMPTIONS. (1) Any minor child whose parent or guardian has submitted to school officials a certificate signed by a physician licensed by the state board of medicine stating that the physical condition of the child is such that all or any of the required immunizations would endanger the life or health of the child shall be exempt from the provisions of this chapter.

(2) Any minor child whose parent or guardian has submitted a signed statement to school officials stating their objections on religious or other grounds shall be exempt from the provisions of this chapter.

SECTION 2. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved March 24, 1978.

1979 am. and redesig. 1979, ch. 313, § 2, p. 845.

C. 313 '79

IDAHO SESSION LAWS

845

heating for the benefit of the county and the residents of the county.

Approved April 3, 1979.

CHAPTER 313  
(H.B. No. 120)

AN ACT

RELATING TO IMMUNIZATION OF SCHOOL AGE CHILDREN; AMENDING SECTION 39-4601, IDAHO CODE, TO REDESIGNATE THE CODE SECTION NUMBER AND TO PROVIDE THAT IMMUNIZATION IS REQUIRED FOR CHILDREN TO ATTEND GRADES KINDERGARTEN THROUGH FIVE OF PUBLIC, PRIVATE OR PAROCHIAL ELEMENTARY SCHOOLS; AND TO REDESIGNATE CODE SECTION 39-4602, IDAHO CODE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-4601, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-4601~~{39-4801}. IMMUNIZATION REQUIRED. Except as provided in section ~~39-4602~~ 39-4802, Idaho Code, any child in Idaho of the school age of compulsory school attendance may attend grades kindergarten through five of any public, private or parochial elementary or secondary school operating in this state if otherwise eligible, provided that within sixty (60) days of the first admission, the parent or guardian shall provide a statement to the school authorities regarding the child's immunity to certain childhood diseases. This statement shall provide a certificate signed by a physician or his representative licensed by the state board of medicine or from an authorized representative of the district health department, that such child has received, or is in the process of receiving immunizations as specified by the board of health and welfare, or can effectively demonstrate, through verification in a form approved by the department of health and welfare, immunity gained through prior contraction of the disease.

~~The parent or guardian of any child who is attending school for other than the first time during the school term beginning in 1978; shall be required to comply with the provisions of this chapter prior to the beginning of the 1979 school year:~~

The parent or guardian of any child who is attending kindergarten through the third grade shall comply with this chapter beginning with the 1979 regular fall school term. The parent or guardian of any child who is attending kindergarten through the fifth grade shall comply

with this chapter beginning with the 1980 regular fall school term and thereafter.

Immunizations required and the manner and frequency of their administration shall be as prescribed by the state board of health and welfare and shall conform to recognized standard medical practices in the state. The state board of health and welfare, in cooperation with the state board of education and the Idaho school boards association, shall promulgate appropriate rules and regulations for the enforcement of the required immunization program and specify reporting requirements of schools, pursuant to the provisions of chapter 52, title 67, Idaho Code.

SECTION 2. That Section 39-4602, Idaho Code, be, and the same is hereby amended to read as follows:

39-4602{39-4802}. EXEMPTIONS. (1) Any minor child whose parent or guardian has submitted to school officials a certificate signed by a physician licensed by the state board of medicine stating that the physical condition of the child is such that all or any of the required immunizations would endanger the life or health of the child shall be exempt from the provisions of this chapter.

(2) Any minor child whose parent or guardian has submitted a signed statement to school officials stating their objections on religious or other grounds shall be exempt from the provisions of this chapter.

Approved April 3, 1979.

CHAPTER 314  
(H.B. No. 169)

AN ACT

RELATING TO CREDIT UNEMPLOYMENT INSURANCE; AMENDING SECTION 41-506, IDAHO CODE, PROVIDING FOR CREDIT UNEMPLOYMENT INSURANCE; AMENDING SECTION 41-1317, IDAHO CODE, PROVIDING FOR ALLOWING CREDIT UNEMPLOYMENT INSURANCE AS AN ALLOWABLE GROUP.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-506, Idaho Code, be, and the same is hereby amended to read as follows:

41-506. "CASUALTY INSURANCE" DEFINED. (1) "Casualty insurance" includes:

## Illinois

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\*\*\* Statutes current through Public Act 98-597 of the 2013 Legislative Session \*\*\*  
\*\*\* Annotations current to State Cases through October 18, 2013 \*\*\*

### CHAPTER 410. PUBLIC HEALTH COMMUNICABLE DISEASES COMMUNICABLE DISEASE PREVENTION ACT

[GO TO THE ILLINOIS STATUTES ARCHIVE DIRECTORY](#)

**410 ILCS 315/2 (2013)**

**[Prior to 1/1/93 cited as: Ill. Rev. Stat., Ch. 111 1/2, para. 22.12]**

**§ 410 ILCS 315/2.** [Regulations; public hearings; exemptions]

Sec. 2. The Department of Public Health shall promulgate rules and regulations requiring immunization of children against preventable communicable diseases designated by the Director. Before any regulation or amendment thereto is prescribed, the Department shall conduct a public hearing regarding such regulation. In addition, before any regulation or any amendment to a regulation is adopted, and after the Immunization Advisory Committee has made its recommendations, the State Board of Health shall conduct 3 public hearings, geographically distributed throughout the State, regarding the regulation or amendment to the regulation. At the conclusion of the hearings, the State Board of Health shall issue a report, including its recommendations, to the Director. The Director shall take into consideration any comments or recommendations made by the Board based on these hearings. The Department may prescribe additional rules and regulations for immunization of other diseases as vaccines are developed.

The provisions of this Act shall not apply if:

1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices or,

2. A physician employed by the parent or guardian to provide care and treatment to the child states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child.

**HISTORY:** Source: P.A. 85-828; 90-607, § 15.

1987 Source: P.A. 85-828 (Effective January 1, 1988)

PUBLIC ACT 85-827

3444

dependents.

Nothing in this Section shall be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the party to the guaranteed loan and approved by the Commission, to preclude forbearance by the Commission in the enforcement of the guaranteed obligation after payment on that guarantee, or to require collection of the amount of any loan by the lender or by the Commission from the estate of a deceased borrower or from a borrower found by the lender to have become permanently and totally disabled.

Nothing in this Section shall be construed to excuse the holder of a loan from exercising reasonable care and diligence in the making and collection of loans under this Act. If the Commission after reasonable notice and opportunity for hearing to a lender finds that it has substantially failed to exercise such care and diligence, the Commission shall disqualify that lender for the guarantee of further loans until the Commission is satisfied that the lender's failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with the rules and regulations of the Commission.

Section 5. This Act takes effect January 1, 1988.

Passed in the General Assembly June 29, 1987.

Approved September 24, 1987.

Effective January 1, 1988.

PUBLIC ACT 85-828  
(House Bill No. 2256)

AN ACT to repeal and amend various provisions relating to inactive committees and boards.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

(Ch. 19, rep. pars. 1071 through 1077.13)

Section 1. "An Act creating the Natural Resources Development Board and defining its powers and duties", approved July 30, 1968, as amended, is repealed.

(Ch. 23, rep. pars. 2701 through 2709)

Section 2. The "Illinois Commission on Delinquency Prevention Act", approved September 11, 1975, as amended, is repealed.

(Ch. 48, rep. pars. 59.3, 59.4, 59.5 and 59.6)

Section 3. Sections 3, 4, 5 and 6 of "An Act in relation to safety inspections and education in industrial and commercial establishments and to repeal an Act therein named", approved July 18, 1955, as amended, are repealed

(Ch. 48, rep. par. 137.6)

Section 4. Section 6 of the "Health and Safety Act", approved March 16, 1936, as amended, is repealed.

Section 5. Section 7 of the "Health and Safety Act", approved March 16, 1936, as amended, is amended to read as follows:

(Ch. 48, par. 137.7)

Sec. 7. The industrial commission may, on its own initiative, or upon written petition, ~~or--upon--the--annual--report--of--the--Occupational--Safety--and--Health--Advisory~~ Committee make, modify or repeal any rule or rules as provided in this Act, conforming with the procedure

New matter indicated by italics deletions by strikeout.

3445

PUBLIC ACT 85-828

prescribed in this Act.

(Ch. 73, rep. pars. 1065.201 through 1065.221 and 1065.300 through 1065.315)

Section 6. Articles XXXVI and XXXVII of the "Illinois Insurance Code", approved June 29, 1937, as amended, are repealed.

Section 7. Section 12-820 of "The Illinois Vehicle Code", approved September 29, 1969, as amended, is amended to read as follows:

(Ch. 95 1/2, par. 12-820)

Sec. 12-820. Nursery school buses buses-----Advisory Committee. The Department of Transportation, after conducting a Public Hearing, may, by regulation, modify and supplement the requirements pertaining to seat dimensions, spacing and height from the floor and to other safety features in the interior of a school bus used to transport preschool children, when such modification or supplementing will enhance the safety of the bus when transporting such children.

(Ch. 96 1/2, rep. pars. 4104 and 4105)

Section 8. Sections 4 and 5 of "The Illinois Coal and Energy Development Board Act", approved August 19, 1974, as amended, are repealed.

Section 9. Section 2 of "An Act in relation to natural resources, research, data collection and environmental studies", approved July 14, 1978, as amended, is amended to read as follows:

(Ch. 96 1/2, par. 7402)

Sec. 2. Director. (a) the Department shall be under the supervision and control of a Director who shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term of 2 years, commencing with the third Monday in January of each odd-numbered year.

(b) The Director, in accordance with the Personnel Code, shall employ such personnel, provide such facilities, and contract for such outside services as may be necessary to carry out the purposes of this Act. Maximum use shall be made of existing federal and state agencies, facilities and personnel in conducting research under this title.

~~(c) As soon as practical the Director shall establish within the Department a Solid Waste Management Task Force to make surveys and recommendations regarding the development of regional systems of solid waste and refuse collection, handling and disposal, for coordinating municipal and industrial solid waste disposal programs, to expedite development of systems for the re-cycling and re-use of refuse and solid waste materials, and to make periodic reports and recommendations for submission to the Pollution Control Board by the Department at such intervals as to assure compliance with the purposes of The Environmental Protection Act. The Pollution Control Board shall make rules and regulations on these subjects based upon such recommendations. The Task Force shall be composed of Department, municipal, county, state and industrial representatives technically qualified in the area of solid waste management.~~

Section 10. Section 2 of "An Act in relation to the prevention of certain communicable diseases", approved July 5, 1967, as amended, is amended to read as follows:

(Ch. 111 1/2, par. 22.12)

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PUBLIC ACT 85-828

3446

Sec. 2. The Department of Public Health shall promulgate rules and regulations requiring immunization of children against preventable communicable diseases designated by the Director. Before any regulation or amendment thereto is prescribed, the Department shall conduct a public hearing regarding such regulation. The Department may prescribe additional rules and regulations for immunization of other diseases as vaccines are developed. ~~The Director of Public Health shall appoint an "Immunization Advisory Committee" consisting of seven members who shall advise and consult with the Department in the development of rules and regulations to be promulgated under this Act. The members of the "Immunization Advisory Committee" shall be chosen from the fields of medicine, laboratory science, and public health.~~

The provisions of this Act shall not apply if:

1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices or,

2. A physician employed by the parent or guardian to provide care and treatment to the child states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child.

(Ch. 122, rep. pars. 1051 through 1070)

Section 11. The "Illinois Educational Development Board Act", approved July 1, 1972, as amended, is repealed.

(Ch. 127, rep. pars. 6.03, 6.12, 6.18a, 6.22 and 7.05)

Section 12. Sections 6.03, 6.12, 6.18a, 6.22 and 7.05 of "The Civil Administrative Code of Illinois", approved March 7, 1917, as amended, are repealed.

(Ch. 127, rep. par. 200-32)

Section 13. Section 12 of the "Illinois Promotion Act", approved August 1, 1963, as amended, is repealed.

(Ch. 128, rep. par. 107.1)

Section 14. Section 7.1 of "The State Library Act", approved July 13, 1939, as amended, is repealed.

(Ch. 129, rep. pars. 223 through 228a)

Section 15. "An Act to create the Illinois Armory Board and to define its powers and duties", approved July 8, 1935, as amended, is repealed.

(Ch. 144, rep. pars. 1503.03, 1504.04 and 1505)

Section 16. Sections 3.03, 4.04 and 5 of the "Dental Student Grant Act", approved August 30, 1979, as amended, are repealed.

Passed in the General Assembly June 29, 1987.

Approved September 24, 1987.

Effective January 1, 1988.

PUBLIC ACT 85-829  
(House Bill No. 2326)

AN ACT in relation to vital records, amending certain Acts herein named.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Sections 19 and 27 of the "Vital Records Act", approved August 8, 1961, as amended, are amended and Section 15.1 is added thereto, the amended and added Sections to read as follows:

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1998 **90-607, § 15.** (Effective June 30, 1998)

PUBLIC ACT 90-606

1544

diabetics, for human use, the tax is imposed at the rate of 1%. For the purposes of this Section, the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size. "Soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. (Source: P.A. 89-359, eff. 8-17-95; 89-420, eff. 6-1-96; 89-463, eff. 5-31-96; 89-626, eff. 8-9-96.)

(35 ILCS 125/Act rep.)

Section 25. The Gasohol Fuels Tax Abatement Act is repealed.

Section 99. Effective date. This Act takes effect upon becoming law.

Passed in the General Assembly May 7, 1998.

Approved June 30, 1998.

Effective June 30, 1998.

**PUBLIC ACT 90-0607**  
(House Bill No. 1699)

AN ACT concerning public health.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Civil Administrative Code of Illinois is amended by changing Section 6.06 as follows:

(20 ILCS 5/6.06) (from Ch. 127, par. 6.06)

Sec. 6.06. In the Department of Public Health.

(a) The General Assembly declares it to be the public policy of this State that all citizens of Illinois are entitled to lead healthy lives. Governmental public health has a specific responsibility to ensure that a system is in place to allow the public health mission to be achieved. To develop a system requires certain core

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1545

PUBLIC ACT 90-607

functions to be performed by government. The State Board of Health is to assume the leadership role in advising the Director in meeting the following functions:

- (1) Needs assessment.
- (2) Statewide health objectives.
- (3) Policy development.
- (4) Assurance of access to necessary services.

There shall be a State Board of Health composed of 17 persons, all of whom shall be appointed by the Governor, with the advice and consent of the Senate for those appointed by the Governor on and after the effective date of this amendatory Act of 1998, and one of whom shall be a senior citizen age 60 or over. Five members shall be physicians licensed to practice medicine in all its branches, one representing a medical school faculty, one who is board certified in preventive medicine, and 2 who are engaged in private practice. One member shall be a dentist; one an environmental health practitioner; one a local public health administrator; one a local board of health member; one a registered nurse; one a veterinarian; one a public health academician; one a health care industry representative; and 4 shall be citizens at large.

In the appointment of the first Board of Health members appointed after the effective date of this amendatory Act of 1991, the Governor shall appoint 5 members to serve for terms of 5 years; 5 members to serve for terms of 2 years; and 5 members to serve for a term of one year. Members appointed thereafter shall be appointed for terms of 3 years, except where an appointment is made to fill a vacancy, in which case the appointment shall be for the remaining term of the position vacated. The initial terms for the 2 additional members of the board who are citizens at large appointed under this amendatory Act of 1998 shall be for 3 years each, with these positions thereafter being filled as with other members appointed by the Governor. All members shall be legal residents of the State of Illinois. The duties of the Board shall include, but not be limited to, the following:

- (1) To advise the Department of ways to encourage public understanding and support of the Department's programs.
- (2) To evaluate all boards, councils, committees, authorities and bodies advisory to, or an adjunct of, the Department of Public Health or its Director for the purpose of recommending to the

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Director one or more of the following:

- (i) The elimination of bodies whose activities are not consistent with goals and objectives of the Department.
  - (ii) The consolidation of bodies whose activities encompass compatible programmatic subjects.
  - (iii) The restructuring of the relationship between the various bodies and their integration within the organizational structure of the Department.
  - (iv) The establishment of new bodies deemed essential to the functioning of the Department.
- (3) To serve as an advisory group to the Director for public health emergencies and control of health hazards.
  - (4) To advise the Director regarding public health policy, and to make health policy recommendations regarding priorities to the Governor through the Director.
  - (5) To present public health issues to the Director and to make recommendations for the resolution of those issues.
  - (6) To recommend studies to delineate public health problems.
  - (7) To make recommendations to the Governor through the Director regarding the coordination of State public health activities with other State and local public health agencies and organizations.
  - (8) To report on or before February 1 of each year on the health of the residents of Illinois to the Governor, the General Assembly and the public.
  - (9) To review the final draft of all proposed administrative rules, other than emergency or preemptory rules and those rules that another advisory body must approve or review within a statutorily defined time period, of the Department after the effective date of this amendatory Act of 1991. The Board shall review the proposed rules within 90 days of submission by the Department. The Department shall take into consideration any comments and recommendations of the Board regarding the proposed rules prior to submission to the Secretary of State for initial publication. If the Department disagrees with the recommendations of the Board, it shall submit a written response

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1547

PUBLIC ACT 90-607

outlining the reasons for not accepting the recommendations.

In the case of proposed administrative rules or amendments to administrative rules regarding immunization of children against preventable communicable diseases designated by the Director under the Communicable Disease Prevention Act, after the Immunization Advisory Committee has made its recommendations, the Board shall conduct 3 public hearings, geographically distributed throughout the State. At the conclusion of the hearings, the State Board of Health shall issue a report, including its recommendations, to the Director. The Director shall take into consideration any comments or recommendations made by the Board based on these hearings.

(10) To make recommendations to the Governor through the Director concerning the development and periodic updating of Statewide health objectives encompassing, in part, the periodically published federal health objectives for the nation, which will provide the basis for the policy development and assurance roles of the State Health Department, and to make recommendations to the Governor through the Director regarding legislation and funding necessary to implement the objectives.

(11) Upon the request of the Governor, to recommend to the Governor candidates for Director of Public Health when vacancies occur in the position.

(12) To adopt bylaws for the conduct of its own business, including the authority to establish ad hoc committees to address specific public health programs requiring resolution. Upon appointment, the Board shall elect a chairperson from among its members.

Members of the Board shall receive compensation for their services at the rate of \$150 per day, not to exceed \$10,000 per year, as designated by the Director for each day required for transacting the business of the Board, and shall be reimbursed for necessary expenses incurred in the performance of their duties. The Board shall meet from time to time at the call of the Department, at the call of the chairperson, or upon the request of 3 of its members, but shall not meet less than 4 times per year.

(b) An Advisory Board of Cancer Control which shall consist of 9 members, one of whom shall be a senior

New matter indicated by italics - deletions by strikeout.

PUBLIC ACT 90-607

1548

citizen age 60 or over, appointed by the Governor, one of whom shall be designated as chairman by a majority of the members of the Board. No less than 4 members shall be recognized authorities in cancer control, and at least 4 members shall be physicians licensed to practice medicine in all of its branches in the State of Illinois. In the appointment of the first board the Governor shall appoint 2 members to serve for terms of 1 year, 2 for terms of 2 years, and 3 for terms of 3 years. The members first appointed under this amendatory Act of 1984 shall serve for a term of 3 years. All members appointed, thereafter shall be appointed for terms of 3 years, except where an appointment is made to fill a vacancy, in which case the appointment shall be for the remaining term of the position vacant. The members of the Board shall be citizens of the State of Illinois. In the appointment of the Advisory Board the Governor shall invite nominations from recognized medical organizations of this State. The Board is authorized to receive voluntary contributions from any source, and to expend the same for the purpose of cancer control as authorized by this Act, and the laws of this State.

(c) An Advisory Board on Necropsy Service to Coroners, which shall counsel and advise with the Director on the administration of the Autopsy Act. The Advisory Board shall consist of 11 members, including a senior citizen age 60 or over, appointed by the Governor, one of whom shall be designated as chairman by a majority of the members of the Board. In the appointment of the first Board the Governor shall appoint 3 members to serve for terms of 1 year, 3 for terms of 2 years, and 3 for terms of 3 years. The members first appointed under this amendatory Act of 1984 shall serve for a term of 3 years. All members appointed thereafter shall be appointed for terms of 3 years except where an appointment is made to fill a vacancy, in which case the appointment shall be for the remaining term of the position vacant. The members of the Board shall be citizens of the State of Illinois. In the appointment of members of the Advisory Board the Governor shall appoint 3 members who shall be persons licensed to practice medicine and surgery in the State of Illinois, at least 2 of whom shall have received post-graduate training in the field of pathology; 3 members who are duly elected coroners in this State; and 5 members who shall have interest and abilities in the field of forensic medicine but who shall be neither persons licensed to practice any branch of medicine in

New matter indicated by italics - deletions by strikeout.

1549

PUBLIC ACT 90-607

this State nor coroners. In the appointment of medical and coroner members of the Board, the Governor shall invite nominations from recognized medical and coroners organizations in this State respectively. Board members, while serving on business of the Board, shall receive actual necessary travel and subsistence expenses while so serving away from their places of residence.

(Source: P.A. 86-436; 87-633.)

Section 10. The Department of Public Health Act is amended by adding Section 8.4 as follows:

(20 ILCS 2305/8.4 new)

Sec. 8.4. Immunization Advisory Committee. The Director of Public Health shall appoint an Immunization Advisory Committee to advise the Director on immunization issues. The Director shall take into consideration any comments or recommendations made by the Advisory Committee. The Immunization Advisory Committee shall be composed of the following members with knowledge of immunization issues: a pediatrician, a physician licensed to practice medicine in all its branches, a family physician, an infectious disease specialist from a university based center, 2 representatives of a local health department, a registered nurse, a school nurse, a public health provider, a public health officer or administrator, a representative of a children's hospital, 2 representatives of immunization advocacy organizations, a representative from the State Board of Education, and any other individuals or organization representatives designated by the Director. The Director shall designate one of the Advisory Committee members to serve as the Chairperson of the Advisory Committee.

Section 15. The Communicable Disease Prevention Act is amended by changing Section 2 as follows:

(410 ILCS 315/2) (from Ch. 111 1/2, par. 22.12)

Sec. 2. The Department of Public Health shall promulgate rules and regulations requiring immunization of children against preventable communicable diseases designated by the Director. Before any regulation or amendment thereto is prescribed, the Department shall conduct a public hearing regarding such regulation. In addition, before any regulation or any amendment to a regulation is adopted, and after the Immunization Advisory Committee has made its recommendations, the State Board of Health shall conduct 3 public hearings, geographically distributed throughout the State, regarding the regulation or amendment to the regulation. At the conclusion of the hearings, the State Board of

New matter indicated by italics - deletions by strikeout.

PUBLIC ACT 90-607

1550

Health shall issue a report, including its recommendations, to the Director. The Director shall take into consideration any comments or recommendations made by the Board based on these hearings. The Department may prescribe additional rules and regulations for immunization of other diseases as vaccines are developed.

The provisions of this Act shall not apply if:

1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices or,

2. A physician employed by the parent or guardian to provide care and treatment to the child states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child. (Source: P.A. 85-828.)

Section 20. The Illinois Health and Hazardous Substances Registry Act is amended by changing Sections 2, 4, and 12 as follows:

(410 ILCS 525/2) (from Ch. 111 1/2, par. 6702)

Sec. 2. (a) The General Assembly finds that:

(i) The dangers of hazardous substances pose a serious threat to the public health and welfare of the citizens of Illinois;

(ii) there exists no unified effort to collect and analyze information on hazardous substances and their potential health effects;

(iii) the lack of comprehensive information has caused concern on the part of Illinois citizens and a lack of effective control by the State government;

(iv) it is the obligation of the State government to inform and protect the citizens of Illinois by developing a comprehensive and integrated data system on hazardous substances and public health.

(b) It is the purpose of this Act to establish a unified Statewide project to collect, compile and correlate information on public health and hazardous substances. Such information is to be used to assist in the determination of public policy and to provide a source of information for the public, except when public disclosure of the information would violate the provisions of subsection (d) of Section 4 concerning confidentiality.

(c) In particular, the purpose of the collection of cancer incidence information is to:

(1) monitor incidence trends of cancer to detect

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1551

PUBLIC ACT 90-607

potential public health problems, predict risks and assist in investigating cancer clusters;

(2) more accurately target intervention resources for communities and patients and their families;

(3) inform health professionals and citizens about risks, early detection and treatment of cancers known to be elevated in their communities; and

(4) promote high quality research to provide better information for cancer control and to address public concerns and questions about cancer.

(Source: P.A. 85-1218.)

(410 ILCS 525/4) (from Ch. 111 1/2, par. 6704)

Sec. 4. (a) There is created the Health and Hazardous Substances Coordinating Council, to be comprised of the following persons ex officio or their designees: Dean of the School of Public Health of the University of Illinois, Director of Natural Resources, Director of Public Health, Director of Labor, Director of Agriculture, Director of the Environmental Protection Agency and the Director of Nuclear Safety.

The University of Illinois School of Public Health shall advise the Department in the design, function and utilization of the Registry.

(b) To facilitate the collection of cancer incidence information, the Department, in consultation with the Advisory Board of Cancer Control, shall have the authority to require hospitals, laboratories or other facilities to report incidences of cancer and other specified tumorous and precancerous diseases to the Department, and to require the submission of such other information pertaining to or in connection with such reported cases as the Department deems necessary or appropriate for the purposes of this Act. The Department may promulgate rules or regulations specifying the hospitals, laboratories or other facilities which are required to submit information pursuant to this Section, the types of information required to be submitted, methods of submitting such information and any other detail deemed by the Department to be necessary or appropriate for administration of this Act. Nothing in this Act shall be construed to compel any individual to submit to a medical examination or supervision.

(c) The Director shall by rule or regulation establish standards or guidelines for ensuring the protection of information made confidential or privileged under law.

(d) The identity, or any group of facts that tends

New matter indicated by italics - deletions by strikeout.



PUBLIC ACT 90-607

1552

to lead to the identity, of any person whose condition or treatment is submitted to the Illinois Health and Hazardous Substances Registry is confidential and shall not be open to public inspection or dissemination. Facts that tend to lead to the identity of a person include the following: name, social security number, address, and any other data element that, by itself or in combination with one or more other data elements, tends to identify any person. The identity of any person or persons claimed to be derived from cancer registry data is not admissible in evidence, and no court shall require information to be produced in discovery if it determines that the information tends to lead to the identity of any person. Information for specific research purposes may be released in accordance with procedures established by the Department. Except as provided by rule, and as part of an epidemiologic investigation, an officer or employee of the Department may interview a patient named in a report made under this Act, or relatives of any such patient, only with the express written consent of the patient.

(e) Hospitals, laboratories, other facilities or physicians shall not be held liable for the release of information or confidential data to the Department in accordance with this Act. The Department shall protect any information made confidential or privileged under law.

(Source: P.A. 89-445, eff. 2-7-96.)

(410 ILCS 525/12) (from Ch. 111 1/2, par. 6712)

Sec. 12. All information contained in the Registry, as well as all reports issued by the Department, including the annual report, shall be made available to the public upon request; provided, however, nothing in this Act permits public disclosure of any information made confidential or privileged pursuant to this Act or any other statute. The Director may, by rule, establish fees to be charged to persons or organizations other than State agencies for requested summaries or analyses of data which are not otherwise included in an annual report. The fees shall not be more than the cost to the Department of supplying the requested information.

(Source: P.A. 85-1218.)

Section 99. Effective date. This Act takes effect upon becoming law.

Passed in the General Assembly May 22, 1998.

Approved June 6, 1998.

Effective Date June 30, 1998.

New matter indicated by italics - deletions by strikeout.

## Indiana

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\*\*\*Annotations current through January 16, 2014 for Indiana Supreme Court cases, through January 16, 2014 for Indiana Appellate Court cases, through December 31, 2013 for Indiana Tax Court cases, and through January 6, 2014 for Federal court cases. \*\*\*

Title 21 Education Finance

Article 40 State Educational Institutions: Admission Standards

Chapter 5 Immunization Requirements at State Educational Institutions

**Burns Ind. Code Ann. § 21-40-5-4 (2013)**

**21-40-5-4.** Exemptions from documentation requirements.

An exemption relieving a student from the requirements of section 3 [IC 21-40-5-3] of this chapter may be accepted by the state educational institution as part of the documentation of exemption for the following reasons:

(1) If a health care provider makes a written statement indicating the nature and probable duration of a medical condition or circumstances that contraindicate an immunization, identifying the specific vaccine that could be detrimental to the student's health.

(2) If pregnancy or suspected pregnancy is certified in a written statement from a health care provider.

(3) If a health care provider provides written documentation that the student is in the course of completing an approved schedule of all necessary doses of the vaccines required for the diseases listed in section 2 [IC 21-40-5-2] of this chapter.

If the student's medical condition or circumstances subsequently permit immunization, the exemptions granted by this section terminate and the student shall obtain the immunizations from which the student has been exempted.

**HISTORY:** P.L.2-2007, § 281, eff. July 1, 2007.

2007 **P.L.2-2007, § 281, eff. July 1, 2007.**

788

P.L.2—2007

(A) Imposition of reasonable charges.

(B) Removing and impounding (at the expense of the violator) vehicles that are operated or parked in violation of regulations.

(C) Denial of permission to operate vehicles on the property of the state educational institution.

(3) Provisions establishing reasonable charges and fees for the registration of vehicles and for the use of parking spaces or facilities owned or occupied by the state educational institution.

#### **Chapter 6. Request for Assistance From Law Enforcement Officers**

**Sec. 1.** The board of trustees of a state educational institution may empower one (1) or more officials of the state educational institution to request the assistance of law enforcement officers of the:

- (1) state;
- (2) counties;
- (3) cities; and
- (4) towns;

when necessary.

**Sec. 2.** When any law enforcement officer is on the property of the state educational institution by virtue of a request under this chapter, the law enforcement officer possesses all powers conferred by this article upon police officers appointed by the board of trustees of the state educational institution, in addition to the powers otherwise conferred upon the law enforcement officers by law.

SECTION 281. IC 21-40 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

#### **ARTICLE 40. STATE EDUCATIONAL INSTITUTIONS: ADMISSION STANDARDS**

##### **Chapter 1. General Provisions; Definitions**

**Sec. 1.** The definitions in this chapter apply throughout this article.

**Sec. 2.** "Academic term" means the regularly scheduled period of on-campus instruction offered by a state educational institution that is substantially comparable to a traditional semester.

**Sec. 3. "Certificate of immunity" means a form that meets the following requirements:**

- (1) Is acceptable to a state educational institution.**
- (2) Establishes the immunity of the certificate holder.**
- (3) Consists of:**
  - (A) a physician's certificate, if available;**
  - (B) immunization records forwarded from another school or state educational institution;**
  - (C) a record maintained by the student or a parent of the student showing the month and year during which each dose of vaccine was administered;**
  - (D) a form developed by the department that may be used by state educational institutions to meet the requirements of IC 21-40-5; or**
  - (E) evidence of having met alternative criteria defined by rules adopted under IC 4-22-2 by the department.**
- (4) Includes a line to be signed by the student or the student's parent or guardian that indicates compliance with IC 21-40-5-5.**

**Sec. 4. "Department" refers to the state department of health.**

**Sec. 5. "Designated record keeping office" refers to the office designated by a state educational institution as being responsible for maintaining student immunization records under IC 21-40-5.**

**Sec. 6. "Documentation of exemption" means a form that:**

- (1) is acceptable to a state educational institution; and**
- (2) indicates the circumstances as described in IC 21-40-5-4 and IC 21-40-5-6 entitling the student to an exemption from the requirements in sections IC 21-40-5-2 and IC 21-40-5-3.**

**Sec. 7. "Enroll" means the process:**

- (1) enabling a student to become a bona fide member of the student body of the state educational institution; and**
- (2) entitling the student to officially audit or receive academic credit for on-campus instruction in Indiana.**

**Sec. 8. "Health care provider" means a:**

- (1) local health authority;**
- (2) licensed physician;**
- (3) licensed physician assistant;**
- (4) licensed pharmacist; or**
- (5) registered nurse.**

**Sec. 9. "Student", for purposes of IC 21-40-5, means an individual who, for the first time:**

- (1) physically attends classes at a residential campus of a state educational institution; and**
- (2) is enrolled in a state educational institution as a full-time student (as defined in 585 IAC 1-9-1(27)).**

**Chapter 2. Equal Education Opportunity**

**Sec. 1. The following is the public policy of the state:**

- (1) To provide:**
  - (A) equal;**
  - (B) nonsegregated; and**
  - (C) nondiscriminatory;****educational opportunities and facilities for all, regardless of race, creed, national origin, color, or sex.**
- (2) To provide and furnish state educational institutions open equally to all, and prohibited and denied to none because of race, creed, color, or national origin.**
- (3) To reaffirm the principles of:**
  - (A) the Bill of Rights;**
  - (B) civil rights; and**
  - (C) the Constitution of the State of Indiana.**
- (4) To provide a uniform democratic system of public education to the state and the citizens of Indiana.**
- (5) To:**
  - (A) abolish;**
  - (B) eliminate; and**
  - (C) prohibit;****segregated and separate departments or divisions of a state educational institution on the basis of race, creed, or color.**
- (6) To eliminate and prohibit:**
  - (A) segregation;**
  - (B) separation; and**
  - (C) discrimination;****on the basis of race, color, or creed in state educational institutions.**

**Sec. 2. This chapter is supplemental to:**

- (1) all common law, statutory law, and civil rights applicable to state educational institutions; and**
- (2) the rights and remedies arising from these laws of the state**

and to the citizens of Indiana.

**Sec. 3.** State educational institutions are open to all children until the children complete their courses of study, subject to the authority vested in the state educational institutions by law.

**Sec. 4. (a)** The board of trustees of a state educational institution may not build or erect, establish, maintain, continue, or permit any segregated or separate state educational institutions on the basis of race, color, creed, or national origin of students.

**(b)** The officials described in subsection (a) may take any affirmative actions that are reasonable, feasible, and practical to effect greater integration and to reduce or prevent segregation or separation of races in state educational institutions for whatever cause, including:

- (1) site selection; or
- (2) revision of:
  - (A) districts;
  - (B) curricula; or
  - (C) enrollment policies;

to implement equalization of educational opportunity for all.

**Sec. 5. (a)** A student may not be prohibited, segregated, or denied attendance or enrollment to a state educational institution because of the student's race, creed, color, or national origin.

**(b)** Every student is free to attend a state educational institution within the laws applicable alike to noncitizen and nonresident students.

**Sec. 6. (a)** A state educational institution may not segregate, separate, or discriminate against any of its students on the basis of race, creed, or color.

**(b)** Admission to a state educational institution may not be approved or denied on the basis of race, creed, or color.

**Sec. 7.** A state educational institution may not discriminate in any way in the hiring, upgrading, tenure, or placement of any teacher on the basis of race, creed, color, or national origin.

### **Chapter 3. General Powers**

**Sec. 1. (a)** This section applies to the board of trustees of the following state educational institutions:

- (1) Ball State University.
- (2) Indiana University.
- (3) Indiana State University.

**(4) Purdue University.**

**(5) University of Southern Indiana.**

**(b) The board of trustees of a state educational institution may set the conditions and standards of admission of students upon criteria that are in the best interests of the state and the state educational institution.**

**Sec. 2. The board of trustees of Ball State University may prescribe conditions for admission.**

**Sec. 3. The University of Southern Indiana may prescribe conditions for admission.**

**Sec. 4. The board of trustees of Vincennes University shall regulate the admission of students and pupils into Vincennes University.**

#### **Chapter 4. Admission Standards; Completion of Core 40 Curriculum**

**Sec. 1. This chapter applies beginning with the class of students who enter a state educational institution as freshmen during the 2011-2012 academic year.**

**Sec. 2. (a) This section does not apply to:**

**(1) Ivy Tech Community College; and**

**(2) Vincennes University with respect to two (2) year degree programs.**

**(b) Except as provided in sections 5 and 6 of this chapter, each state educational institution must require a student who is an Indiana resident to have completed either:**

**(1) the Core 40 curriculum established under IC 20-30-10; or**

**(2) a curriculum that is equivalent to the Core 40 curriculum; as a general requirement for regular admission as a freshman to the state educational institution.**

**(c) Each state educational institution must establish the institution's:**

**(1) requirements for regular admission; and**

**(2) exceptions to the institution's requirements for regular admission.**

**Sec. 3. (a) This section applies to:**

**(1) Ivy Tech Community College; and**

**(2) Vincennes University with respect to two (2) year degree programs.**

**(b) A student who enters a state educational institution to which**

**this section applies to obtain a two (2) year degree is not required to have completed either:**

- (1) the Core 40 curriculum established under IC 20-30-10; or**
  - (2) a curriculum that is equivalent to the Core 40 curriculum;**
- to be admitted to the state educational institution.**

**Sec. 4. The commission for higher education shall encourage accredited private postsecondary educational institutions to adopt general regular admissions requirements and exceptions to the regular admissions requirements that are similar to the requirements set forth in section 2 of this chapter.**

**Sec. 5. (a) This section applies to a student who has not completed:**

- (1) the Core 40 curriculum established under IC 20-30-10; or**
- (2) a curriculum that is equivalent to the Core 40 curriculum.**

**(b) A student to whom this section applies may apply for acceptance as a transfer student at a state educational institution to which section 2 of this chapter applies if the student has successfully completed at least twelve (12) credit hours of college level courses with at least a "C" average or the equivalent in each course.**

**Sec. 6. The requirement set forth in section 2(b) of this chapter that a student must have completed the Core 40 curriculum or a curriculum equivalent to the Core 40 curriculum for regular admission does not apply to a student who will be at least twenty-one (21) years of age during the semester for which the student seeks admission.**

#### **Chapter 5. Immunization Requirements at State Educational Institutions**

**Sec. 1. The department shall develop a form that can be used by state educational institutions to meet the requirements of this chapter concerning the use of a certificate of immunity.**

**Sec. 2. (a) Except as provided in section 7 of this chapter, a state educational institution may not permit a student to matriculate in a residential campus of a state educational institution unless the student provides the documentation required by section 3 of this chapter for the following diseases:**

- (1) Diphtheria.**
- (2) Tetanus.**
- (3) Measles.**



**(4) Mumps.**

**(5) Rubella.**

**(b) A state educational institution shall notify a student before the student's matriculation of the following requirements:**

**(1) That the student must be immunized and that the immunization is required for matriculation at the state educational institution unless the student provides the documentation required by section 3 of this chapter.**

**(2) That the:**

**(A) student; or**

**(B) student's parent or guardian;**

**must comply with section 5 of this chapter.**

**Sec. 3. (a) Before matriculating in a residential campus of a state educational institution, a student shall provide the state educational institution with one (1) of the following documents:**

**(1) A certificate of immunity.**

**(2) Documentation of exemption as described in sections 4 and 6 of this chapter.**

**(b) Before matriculating in a residential campus of a state educational institution, a student who is not a citizen or resident of the United States shall provide the state educational institution with:**

**(1) medical documentation that the student has been tested for tuberculosis in the United States;**

**(2) the date on which the tuberculosis test was taken; and**

**(3) the results of the tuberculosis test.**

**(c) If a student fails to comply with subsection (a) or (b) by the beginning of the student's second academic term, the state educational institution shall prohibit the student from matriculating in the residential campus of the state educational institution until the requirements are met.**

**Sec. 4. An exemption relieving a student from the requirements of section 3 of this chapter may be accepted by the state educational institution as part of the documentation of exemption for the following reasons:**

**(1) If a health care provider makes a written statement indicating the nature and probable duration of a medical condition or circumstances that contraindicate an immunization, identifying the specific vaccine that could be**

detrimental to the student's health.

(2) If pregnancy or suspected pregnancy is certified in a written statement from a health care provider.

(3) If a health care provider provides written documentation that the student is in the course of completing an approved schedule of all necessary doses of the vaccines required for the diseases listed in section 2 of this chapter.

If the student's medical condition or circumstances subsequently permit immunization, the exemptions granted by this section terminate and the student shall obtain the immunizations from which the student has been exempted.

**Sec. 5. (a)** A state educational institution in which an individual intends to enroll shall provide detailed information on the risks associated with meningococcal disease and the availability and effectiveness of vaccination to:

(1) the individual, if the individual is at least eighteen (18) years of age; or

(2) the individual's parent or guardian, if the individual is less than eighteen (18) years of age.

**(b)** A state educational institution described in subsection (a) must receive a certificate of immunity:

(1) that is signed by:

(A) the individual, if the individual is at least eighteen (18) years of age; or

(B) the individual's parent or guardian, if the individual is less than eighteen (18) years of age; and

(2) that states that the information provided under subsection (a) has been reviewed by:

(A) the individual, if the individual is at least eighteen (18) years of age; or

(B) the individual's parent or guardian, if the individual is less than eighteen (18) years of age.

**Sec. 6. (a)** Except as otherwise provided, a student may not be required to undergo testing, examination, immunization, or treatment required under this chapter when the student objects on religious grounds.

**(b)** A religious objection does not exempt a student from testing, examination, immunization, or treatment required under this chapter unless the request for an exemption is:

- (1) made in writing;
- (2) signed by the student; and
- (3) delivered to the individual who might order a test, an examination, an immunization, or a treatment absent the religious objection.

**Sec. 7. (a)** Upon the commencement of a student's first academic term at a state educational institution and not later than the commencement of the student's second academic term, the state educational institution shall require the student to comply with the requirements of section 3 of this chapter. If the student fails to comply with the requirements of section 3 of this chapter by the commencement of the student's first academic term, the state educational institution shall do the following:

- (1) Notify the student of the requirement that the student must be immunized and that the immunizations may be administered by a health care provider.
- (2) Notify the student that the immunization is required for the student's continued:
  - (A) enrollment in;
  - (B) attendance at; or
  - (C) residence on;

the campus of the state educational institution unless the student provides the documentation required by section 3 of this chapter.

**(b)** If a student fails to comply with section 3 of this chapter by the beginning of the student's second academic term, the postsecondary institution shall prohibit the student from matriculating in the postsecondary institution's residential campus until the requirements are met.

**Sec. 8.** The department may commence an action against a state educational institution under IC 4-21.5-3-6 or IC 4-21.5-4 for the issuance of an order of compliance for failure to enforce this chapter.

**Sec. 9. (a)** The designated record keeping office shall maintain records obtained under section 7 of this chapter containing the required elements of the immunization status of an enrolled student. The information required on the certificate of immunity and the documentation of exemption, whichever applies, constitutes the required elements of an enrolled student's

immunization status. The information on the certificate of immunity and the documentation of exemption, whichever applies:

- (1) is sufficient for accurate compliance with section 11 of this chapter; and
- (2) must be accepted by each state educational institution for purposes of this chapter.

(b) The department and the local health department shall, for good cause shown that there exists a substantial threat to the:

- (1) health and safety of a student; or
- (2) community of an educational institution;

be able to validate immunization reports by onsite reviews or examinations of nonidentifying immunization record data. This section does not independently authorize the department, a local department of health, or an agent of the state or local department of health to have access to identifying medical or academic record data of individual students attending nonaccredited private postsecondary educational institutions.

(c) The records referred to in subsection (a) are sufficient to enable the state educational institution to generate a listing of the students who have filed documentation of exemption forms. The state educational institution shall develop sufficient plans for excluding these students from the state educational institution for the protection of these students if an outbreak of a vaccine preventable disease listed in section 2 of this chapter occurs at or near the campus of the state educational institution.

Sec. 10. A state educational institution may furnish, not later than twenty (20) days after a student transfer, a copy of a student's immunization record to the state educational institution to which the student transfers and enrolls. The state educational institution to which the student transfers and enrolls may request a copy of the student's immunization record from any state educational institution that the student attended.

Sec. 11. A state educational institution shall submit a summary report to the department and the local health department having jurisdiction by March 15 of each year. The annual summary report:

- (1) must be signed by an official of the designated record keeping office certifying that the information included in the summary report is accurate; and

**(2) must include the following:**

**(A) A statement of the number of students with certificates of immunity, categorized by disease.**

**(B) A statement of the number of students with appropriate documentation of exemption, categorized by disease.**

**Sec. 12. This chapter does not prohibit a postsecondary educational institution that:**

**(1) provides education, degrees, or certificates above the high school level; and**

**(2) is not a state educational institution;**

**from voluntarily complying with this chapter.**

**Sec. 13. The department shall adopt rules under IC 4-22-2 necessary to implement this chapter. However, the department may not adopt rules to expand or modify the list of communicable diseases in section 2 of this chapter.**

**SECTION 282. IC 21-41 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:**

**ARTICLE 41. STATE EDUCATIONAL INSTITUTIONS:  
CURRICULA; COURSES OF STUDY; PROGRAMS**

**Chapter 1. General Provisions; Definitions**

**Sec 1. The definitions in this chapter apply throughout this article.**

**Sec. 2. "Board of trustees":**

**(1) for purposes of IC 21-41-3, refers to the board of trustees of Ball State University; and**

**(2) for purposes of IC 21-41-4, refers to the board of trustees of Indiana University.**

**Sec. 3. "Regional campus" means Indiana State University – Regional Campus Evansville, a regional campus managed by the board of trustees of Indiana State University before July 1, 1985.**

**Chapter 2. General Powers**

**Sec. 1. (a) This section applies to the board of trustees of the following state educational institutions:**

**(1) Ball State University.**

**(2) Indiana University.**

**(3) Indiana State University.**

**(4) Purdue University.**

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Title 20 Education

Article 34 Student Health and Safety Measures

Chapter 3 Health and Safety Measures

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Burns Ind. Code Ann. § 20-34-3-2 (2013)

**20-34-3-2.** Religious objections to health treatment.

(a) Except as otherwise provided, a student may not be required to undergo any testing, examination, immunization, or treatment required under this chapter or IC 20-34-4 when the child's parent objects on religious grounds. A religious objection does not exempt a child from any testing, examination, immunization, or treatment required under this chapter or IC 20-34-4 unless the objection is:

(1) made in writing;

(2) signed by the child's parent; and

(3) delivered to the child's teacher or to the individual who might order a test, an exam, an immunization, or a treatment absent the objection.

(b) A teacher may not be compelled to undergo any testing, examination, or treatment under this chapter or IC 20-34-4 if the teacher objects on religious grounds. A religious objection does not exempt an objecting individual from any testing, examination, or treatment required under this chapter or IC 20-34-4 unless the objection is:

(1) made in writing;

(2) signed by the objecting individual; and

(3) delivered to the principal of the school in which the objecting individual teaches.

**HISTORY:** P.L.1-2005, § 18.

Burns Ind. Code Ann. § 20-34-3-3 (2013)

**20-34-3-3.** Exception where immunization may be detrimental to health.

If a physician certifies that a particular immunization required by this chapter or IC 20-34-4 is or may be detrimental to a student's health, the requirements of this chapter or IC 20-34-4 for that particular immunization is inapplicable for the student until the immunization is found no longer detrimental to the student's health.

**HISTORY:** P.L.1-2005, § 18.

2005 P.L.1-2005, § 18.

P.L.1—2005

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P.L.1-2005

[H.1288. Approved April 25, 2005.]

AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 20-17 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**ARTICLE 17. EFFECT OF RECODIFICATION OF TITLE 20**

**Chapter 1. Effect of Recodification by the Act of the 2005 Regular Session of the General Assembly**

**Sec. 1.** As used in this chapter, "prior law" refers to the statutes concerning education that are repealed or amended in the recodification act of the 2005 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 2005 regular session of the general assembly.

**Sec. 2.** The purpose of the recodification act of the 2005 regular session of the general assembly is to recodify prior law in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 2005 regular session of the general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 2005 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 2004 expressly indicate a different purpose;

the substantive operation and effect of the prior law continue uninterrupted as if the recodification act of the 2005 regular session of the general assembly had not been enacted.

**Sec. 3.** Subject to section 2 of this chapter, sections 4 through 9 of this chapter shall be applied to the statutory construction of the recodification act of the 2005 regular session of the general assembly.



by the high school.

**Sec. 5. Information received by an official recruiting representative under section 4 of this chapter:**

- (1) may be used only to provide information to students concerning educational and career opportunities available in:
  - (A) the armed forces of the United States;
  - (B) the Indiana Air National Guard;
  - (C) the Indiana Army National Guard; and
  - (D) the service academies of the armed forces of the United States; and
- (2) may not be released to a person who is not involved in recruiting high school students for:
  - (A) the armed forces of the United States;
  - (B) the Indiana Air National Guard;
  - (C) the Indiana Army National Guard; and
  - (D) the service academies of the armed forces of the United States.

**SECTION 18. IC 20-34 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:**

**ARTICLE 34. STUDENT HEALTH AND SAFETY MEASURES**

**Chapter 1. Acquired Immune Deficiency Syndrome Advisory Council**

**Sec. 1. As used in this chapter, "AIDS" means the communicable disease known as acquired immune deficiency syndrome.**

**Sec. 2. As used in this chapter, "council" refers to an AIDS advisory council established under this chapter.**

**Sec. 3. (a) The governing body of each school corporation shall establish a council.**

**(b) Subsection (a) does not apply to a school corporation that has:**

- (1) established an advisory committee composed of parents, students, teachers, administrators, and representatives of the state department of health; and
- (2) met and identified educational materials and resources reflecting community standards on AIDS before February 15, 1988.

**Sec. 4. The council consists of thirteen (13) members. The governing body shall appoint all the members of the council.**

**Sec. 5. One (1) member of the council must be:**

- (1) a representative of the local board of health or state

medication.

**Sec. 19. (a) Each public school student and teacher shall wear industrial quality eye protective devices at all times while participating in any of the following courses:**

**(1) Vocational or industrial arts shops or laboratories involving experience with:**

**(A) hot molten metals;**

**(B) milling, sawing, turning, shaping, cutting, or stamping of any solid material;**

**(C) heat treatment, tempering, or kiln firing of any metal or material;**

**(D) gas or electric arc welding;**

**(E) repair or servicing of any vehicle; or**

**(F) caustic or explosive materials.**

**(2) Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids.**

**(b) Eye protective devices are of industrial quality if the devices meet the standards of the American standard safety code for head, eye, and respiratory protection, Z2.1-1959, promulgated by the American Standards Association, Inc.**

**Sec. 20. (a) The governing body of a school corporation shall require each school in the governing body's jurisdiction to conduct periodic fire drills during the school year in compliance with rules adopted under IC 4-22-2 by the state board.**

**(b) The governing body of a school corporation shall require each principal to file a certified statement that fire drills have been conducted as required under this section.**

#### **Chapter 4. Immunizations**

**Sec. 1. (a) Each school shall keep an immunization record of the school's students. The records must be kept uniformly throughout Indiana according to procedures prescribed by the state department of health.**

**(b) Whenever a student transfers to another school, the school from which the student is transferring may furnish, not later than twenty (20) days after the transfer, a copy of the student's immunization record to the school to which the student is transferring.**

**(c) Whenever a student enrolls in a postsecondary institution (as defined in IC 20-12-71-8), the school from which the student graduated may furnish a copy of the student's immunization record to the postsecondary institution. If the student is enrolled in a**

postsecondary institution while still attending a secondary level school, the secondary level school that the student is attending may furnish a copy of the student's immunization record to the postsecondary institution.

**Sec. 2. (a) Every child residing in Indiana shall be immunized against:**

- (1) diphtheria;**
- (2) pertussis (whooping cough);**
- (3) tetanus;**
- (4) measles;**
- (5) rubella;**
- (6) poliomyelitis; and**
- (7) mumps.**

**(b) Every child residing in Indiana who enters kindergarten or grade 1 shall be immunized against hepatitis B and chicken pox.**

**(c) The state department of health may expand or otherwise modify the list of communicable diseases that require documentation of immunity as medical information becomes available that would warrant the expansion or modification in the interest of public health.**

**(d) The state department of health shall adopt rules under IC 4-22-2 specifying the:**

- (1) required immunizations;**
- (2) child's age for administering each vaccine;**
- (3) adequately immunizing doses; and**
- (4) method of documentation of proof of immunity.**

**Sec. 3. Each school shall notify each parent of a student who enrolls in the school of the requirement that the student must be immunized and that the immunization is required for the student's continued enrollment, attendance, or residence at the school unless:**

- (1) the parent or student provides the appropriate documentation of immunity;**
- (2) for chicken pox, the parent or student provides a written signed statement that the student has indicated a history of chicken pox; or**
- (3) IC 20-34-3-2 or IC 20-34-3-3 applies.**

**Sec. 4. (a) The parent of any student who has not received the immunizations required under this chapter shall present the student to a physician and request the physician administer the immunizations. If the parent is unable to secure the immunizations, the local health department serving the area in which the student**

resides may provide the immunizations. Vaccines provided by the local health department shall be furnished by the local health board or the state department of health from available supplies.

(b) The physician who administers the required vaccines to a student shall give a certificate or other documentation of the immunizations to the individual who presented the student for immunization. This certificate or other documentation shall be presented on request to the local health department or the local health department's authorized representative.

Sec. 5. (a) Each school shall require the parent of a student who has enrolled in the school to furnish not later than the first day of school a written statement of the student's immunization, accompanied by the physician's certificates or other documentation, unless a written statement of this nature is on file with the school.

(b) The statement must show, except for a student to whom IC 20-34-3-2 or IC 20-34-3-3 applies, that the student has been immunized as required under section 2 of this chapter. The statement must include the student's date of birth and the date of each immunization.

(c) A student may not be permitted to attend school beyond the first day of school without furnishing the written statement, unless:

- (1) the school gives the parent of the student a waiver; or
- (2) the local health department or a physician determines that the student's immunization schedule has been delayed due to extreme circumstances and that the required immunizations will not be completed before the first day of school.

The waiver referred to in subdivision (1) may not be granted for a period that exceeds twenty (20) days. If subdivision (2) applies, the parent of the student shall furnish the written statement and a schedule, approved by a physician or the local health department, for the completion of the remainder of the immunizations.

(d) The state department of health may commence an action against a school under IC 4-21.5-3-6 or IC 4-21.5-4 for the issuance of an order of compliance for failure to enforce this section.

(e) Neither a religious objection under IC 20-34-3-2 nor an exception for the student's health under IC 20-34-3-3 relieves a parent from the reporting requirements under this section.

(f) The state department of health shall adopt rules under IC 4-22-2 to implement this section.

Sec. 6. (a) Not later than sixty (60) days after the enrollment of

students for the first time and when additional immunizations are required by statute or rule, each school shall file a written report with the state department of health and the local health department having jurisdiction. The report must include the following:

(1) A statement of the number of students who have demonstrated immunity against diphtheria, pertussis (whooping cough), tetanus, measles, rubella, poliomyelitis, mumps, and hepatitis B.

(2) A statement of the number of students who have not demonstrated immunity against the illnesses listed in subdivision (1).

(3) A statement of the number of students who have been found positive for sickle cell anemia or lead poisoning.

(b) The state department of health and the local health department shall, for good cause shown that there exists a substantial threat to the health and safety of a student or the school community, be able to validate immunization reports by onsite reviews or examinations of nonidentifying immunization record data. This section does not independently authorize the state department of health, a local department of health, or an agent of the state department of health or local department of health to have access to identifying medical or academic record data of individual students attending nonaccredited nonpublic schools.

(c) A report shall be filed for each student who enrolls subsequent to the filing of the report for students who enrolled at the beginning of the school year. The state department of health has exclusive power to adopt rules for the administration of this section.

Sec. 7. (a) Each student in Indiana who enters grade 9 or grade 12 shall be immunized against hepatitis B. However, a student may not be prevented from enrolling in, attending, or graduating from high school for the sole reason that the student has not been immunized under this section.

(b) Beginning in the 2007-2008 school year, a high school is not required to notify each parent of a student enrolled to enter grade 9 of the immunization requirement in this section.

(c) The exceptions in IC 20-34-3-2 and IC 20-34-3-3 apply to this section.

(d) This section expires July 1, 2008.

SECTION 19. IC 20-35 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,

Iowa  
LexisNexis Academic

LEXIS NEXIS (R) IOWA ANNOTATED STATUTES

\*\*\* This document is current through the 2012 Supplement (2012 Legislation) \*\*\*

\*\*\* Annotations current through August 23, 2013. \*\*\*

TITLE IV PUBLIC HEALTH  
SUBTITLE 2 HEALTH-RELATED ACTIVITIES  
CHAPTER 139A COMMUNICABLE AND INFECTIOUS DISEASES AND  
POISONINGS  
SUBCHAPTER I GENERAL PROVISIONS

GO TO CODE ARCHIVE DATABASE FOR THIS JURISDICTION

Iowa Code § 139A.8 (2013)

139A.8 Immunization of children.

1. A parent or legal guardian shall assure that the person's minor children residing in the state are adequately immunized against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, and varicella, according to recommendations provided by the department subject to the provisions of subsections 3 and 4.
2.
  - a. A person shall not be enrolled in any licensed child care center or elementary or secondary school in Iowa without evidence of adequate immunizations against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, and varicella.
  - b. Evidence of adequate immunization against haemophilus influenza B and invasive pneumococcal disease shall be required prior to enrollment in any licensed child care center.
  - c. Evidence of hepatitis type B immunization shall be required of a child born on or after July 1, 1994, prior to enrollment in school in kindergarten or in a grade.
  - d. Immunizations shall be provided according to recommendations provided by the department subject to the provisions of subsections 3 and 4.
3. Subject to the provision of subsection 4, the state board of health may modify or delete any of the immunizations in subsection 2.
4.
  - a. Immunization is not required for a person's enrollment in any elementary or secondary school or licensed child care center if either of the following applies:

(1) The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits to the admitting official a statement signed by a physician, advanced registered nurse practitioner, or physician assistant who is licensed by the board of medicine, board of nursing, or board of physician assistants that the immunizations required would be injurious to the health and well-being of the applicant or any member of the applicant's family.

(2) The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits an affidavit signed by the applicant, or if the applicant is a minor, the applicant's parent or legal guardian, stating that the immunization conflicts with the tenets and practices of a recognized religious denomination of which the applicant is an adherent or member.

b. The exemptions under this subsection do not apply in times of emergency or epidemic as determined by the state board of health and as declared by the director of public health.

5. A person may be provisionally enrolled in an elementary or secondary school or licensed child care center if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The department shall adopt rules relating to the provisional admission of persons to an elementary or secondary school or licensed child care center.

6. The local board shall furnish the department, within sixty days after the first official day of school, evidence that each person enrolled in any elementary or secondary school has been immunized as required in this section subject to subsection 4. The department shall adopt rules pursuant to chapter 17A relating to the reporting of evidence of immunization.

7. Local boards shall provide the required immunizations to children in areas where no local provision of these services exists.

8. The department, in consultation with the director of the department of education, shall adopt rules for the implementation of this section and shall provide those rules to local school boards and local boards.

**HISTORY:** 2000 Acts, ch 1066, § 8; 2003 Acts, ch 78, § 1 - 3; 2007 Acts, ch 10, § 24; 2007 Acts, ch 11, § 1; 2009 Acts, ch 41, § 263

LexisNexis (R) Notes:

## CASE NOTES

1. (Unpublished opinion) Paternity decree was modified to eliminate the provision that prevented the mother from consenting to immunizations because it was

clearly against the law and public policy of Iowa; additionally, under the terms of the decree, the mother, not the father, had the right and responsibility for all religious decisions and, thus, only she could determine whether the religious exemption for immunizations should apply. Rodgers v. Clark, 2007 Iowa App. LEXIS 53 (Iowa Ct. App. Jan. 18 2007).

2. (Unpublished opinion) Paternity decree was modified to eliminate the provision preventing the mother from consenting to immunizations for the children because the provision was clearly against the public policy of Iowa; the father did not have the ability to state, as a medical matter, that he did not agree with immunizations and, under the terms of the decree, the mother had the right and responsibility for all religious decisions and thus, only she could determine whether the religious exemption for immunizations, Iowa Code § 139A.8(4)(b) should apply. Rodgers v. Clark, 2007 Iowa App. LEXIS 53 (Iowa Ct. App. Jan. 18 2007).

3. (Unpublished opinion) Paternity decree was modified to eliminate the provision preventing the mother from consenting to immunizations for the children because the provision was clearly against the public policy of Iowa; the father did not have the ability to state, as a medical matter, that he did not agree with immunizations and, under the terms of the decree, the mother had the right and responsibility for all religious decisions and thus, only she could determine whether the religious exemption for immunizations, Iowa Code § 139A.8(4)(b) should apply. Rodgers v. Clark, 2007 Iowa App. LEXIS 53 (Iowa Ct. App. Jan. 18 2007).



2000 **2000 Acts, ch 1066, § 8** (approved April 7, 2000)

CH. 1066

LAWS OF THE SEVENTY-EIGHTH G.A., 2000 SESSION

144

## CHAPTER 1066

### COMMUNICABLE AND INFECTIOUS DISEASES

S.F. 2314

**AN ACT** relating to communicable and infectious diseases and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **NEW SECTION. 139A.1 TITLE.**

This chapter shall be known as the "Communicable and Infectious Disease Reporting and Control Act".

Sec. 2. **NEW SECTION. 139A.2 DEFINITIONS.**

For purposes of this chapter, unless the context otherwise requires:

1. "Business" means and includes every trade, occupation, or profession.
2. "Communicable disease" means any disease spread from person to person or animal to person.
3. "Contagious or infectious disease" means hepatitis in any form, meningococcal disease, tuberculosis, and any other disease, with the exception of AIDS or HIV infection as defined in section 141A.1, determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department, based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control and prevention of the United States department of health and human services.
4. "Department" means the Iowa department of public health.
5. "Designated officer" means a person who is designated by a department, agency, division, or service organization to act as an infection control liaison officer.
6. "Emergency care provider" means a person who is trained and authorized by federal or state law to provide emergency medical assistance or treatment, for compensation or in a voluntary capacity, including but not limited to all of the following:
  - a. An emergency medical care provider as defined in section 147A.1.
  - b. A health care provider.
  - c. A fire fighter.
  - d. A peace officer.
 "Emergency care provider" also includes a person who renders direct emergency aid without compensation.
7. "Exposure" means the risk of contracting disease.
8. "Exposure-prone procedure" means a procedure performed by a health care provider which presents a recognized risk of percutaneous injury to the health care provider and if such an injury occurs, the health care provider's blood is likely to contact a patient's body cavity, subcutaneous tissues, or mucous membranes, or exposure-prone procedure as defined by the centers for disease control and prevention of the United States department of health and human services.
9. "HBV" means hepatitis B virus.
10. "Health care facility" means a health care facility as defined in section 135C.1, an ambulatory surgical center, or a clinic.
11. "Health care provider" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, podiatry, nursing, dentistry, optometry, or as a physician assistant, dental hygienist, or acupuncturist.
12. "HIV" means HIV as defined in section 141A.1.
13. "Hospital" means hospital as defined in section 135B.1.
14. "Isolation" means the separation of persons or animals presumably or actually affected with a communicable disease or who are disease carriers for the usual period of communicability of that disease in such places, marked by placards if necessary, and under such conditions as will prevent the direct or indirect conveyance of the infectious agent or contagion to susceptible persons.

15. "Local board" means the local board of health.
16. "Local department" means the local health department.
17. "Placard" means a warning sign to be erected and displayed on the periphery of a quarantine area, forbidding entry to or exit from the area.
18. "Quarantinable disease" means any communicable disease designated by rule adopted by the department as requiring quarantine or isolation to prevent its spread.
19. "Quarantine" means the limitation of freedom of movement of persons or animals that have been exposed to a communicable disease within specified limits marked by placards for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent the spread of a communicable disease which affects people.
20. "Reportable disease" means any disease designated by rule adopted by the department requiring its occurrence to be reported to an appropriate authority.
21. "Sexually transmitted disease or infection" means a disease or infection as identified by rules adopted by the department, based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control and prevention of the United States department of health and human services.
22. "Terminal cleaning" means cleaning procedures defined in the isolation guidelines issued by the centers for disease control and prevention of the United States department of health and human services.

**Sec. 3. NEW SECTION. 139A.3 REPORT TO DEPARTMENT.**

1. The health care provider or public, private, or hospital clinical laboratory attending a person infected with a reportable disease shall immediately report the case to the department. However, when a case occurs within the jurisdiction of a local health department, the report shall be made to the local department and to the department. A health care provider or public, private, or hospital clinical laboratory who files such a report which identifies a person infected with a reportable disease shall assist in the investigation by the department, a local board, or a local department. The department shall publish and distribute instructions concerning the method of reporting. Reports shall be made in accordance with rules adopted by the department and shall require inclusion of all the following information:

- a. The patient's name.
- b. The patient's address.
- c. The patient's date of birth.
- d. The sex of the patient.
- e. The race and ethnicity of the patient.
- f. The patient's marital status.
- g. The patient's telephone number.
- h. The name and address of the laboratory.
- i. The date the test was found to be positive and the collection date.
- j. The name of the health care provider who performed the test.
- k. If the patient is female, whether the patient is pregnant.

2. a. Any person who, acting reasonably and in good faith, files a report under this section is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for making a report.

b. A report to the department, to a local board, or to a local department, which identifies a person infected with a reportable disease, is confidential and shall not be accessible to the public.

c. Notwithstanding paragraph "b", information contained in the report may be reported in public health records in a manner which prevents the identification of any person or business named in the report. If information contained in the report concerns a business, information disclosing the identity of the business may be released to the public when the state epidemiologist or the director of public health determines such a release of information necessary for the protection of the health of the public.

**Sec. 4. NEW SECTION. 139A.4 TYPE AND LENGTH OF ISOLATION OR QUARANTINE.**

1. The type and length of isolation or quarantine imposed for a specific communicable disease shall be in accordance with rules adopted by the department.

2. The department and the local boards may impose and enforce isolation and quarantine restrictions.

3. The department shall adopt rules governing terminal cleaning.

**Sec. 5. NEW SECTION. 139A.5 ISOLATION OR QUARANTINE SIGNS ERECTED.**

When isolation or a quarantine is established, appropriate placards prescribed by the department shall be erected to mark the boundaries of the place of isolation or quarantine.

**Sec. 6. NEW SECTION. 139A.6 COMMUNICABLE DISEASES.**

If a person, whether or not a resident, is infected with a communicable disease dangerous to the public health, the local board shall issue orders in regard to the care of the person as necessary to protect the public health. The orders shall be executed by the designated officer as the local board directs or provides by rules.

**Sec. 7. NEW SECTION. 139A.7 DISEASED PERSONS MOVING — RECORD FORWARDED.**

If a person known to be suffering from a communicable disease dangerous to the public health moves from the jurisdiction of a local board into the jurisdiction of another local board, the local board from whose jurisdiction the person moves shall notify the local board into whose jurisdiction the person is moving.

**Sec. 8. NEW SECTION. 139A.8 IMMUNIZATION OF CHILDREN.**

1. A parent or legal guardian shall assure that the person's minor children residing in the state are adequately immunized against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, and rubella, according to recommendations provided by the department subject to the provisions of subsections 3 and 4.

2. a. A person shall not be enrolled in any licensed child care center or elementary or secondary school in Iowa without evidence of adequate immunizations against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, and rubella.

b. Evidence of adequate immunization against haemophilus influenza B shall be required prior to enrollment in any licensed child care center.

c. Evidence of hepatitis type B immunization shall be required of a child born on or after July 1, 1994, prior to enrollment in school in kindergarten or in a grade.

d. Immunizations shall be provided according to recommendations provided by the department subject to the provisions of subsections 3 and 4.

3. Subject to the provision of subsection 4, the state board of health may modify or delete any of the immunizations in subsection 2.

4. Immunization is not required for a person's enrollment in any elementary or secondary school or licensed child care center if either of the following applies:

a. The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits to the admitting official a statement signed by a physician, who is licensed by the state board of medical examiners, that, in the physician's opinion, the immunizations required would be injurious to the health and well-being of the applicant or any member of the applicant's family.

b. The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits an affidavit signed by the applicant, or if the applicant is a minor, the applicant's parent or legal guardian, stating that the immunization conflicts with the tenets and practices of a recognized religious denomination of which the applicant is an adherent or member.

The exemptions under this subsection do not apply in times of emergency or epidemic as determined by the state board of health and as declared by the director of public health.

5. A person may be provisionally enrolled in an elementary or secondary school or licensed child care center if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The department shall adopt rules relating to the provisional admission of persons to an elementary or secondary school or licensed child care center.

6. The local board shall furnish the department, within sixty days after the first official day of school, evidence that each person enrolled in any elementary or secondary school has been immunized as required in this section subject to subsection 4. The department shall adopt rules pursuant to chapter 17A relating to the reporting of evidence of immunization.

7. Local boards shall provide the required immunizations to children in areas where no local provision of these services exists.

8. The department, in consultation with the director of the department of education, shall adopt rules for the implementation of this section and shall provide those rules to local school boards and local boards.

**Sec. 9. NEW SECTION. 139A.9 FORCIBLE REMOVAL — ISOLATION — QUARANTINE.**

The forcible removal and isolation or quarantine of any infected person shall be accomplished according to the rules and regulations of the local board or the rules of the state board of health.

**Sec. 10. NEW SECTION. 139A.10 FEES FOR REMOVING.**

The officers designated by the magistrate shall receive reasonable compensation for their services as determined by the local board. The amount determined shall be certified and paid in the same manner as other expenses incurred under this chapter.

**Sec. 11. NEW SECTION. 139A.11 MEDICAL ATTENDANCE AND SUPPLIES — ISOLATION — QUARANTINE.**

If the person under isolation or quarantine or the person liable for the support of the person, in the opinion of the local board, is financially unable to secure proper care, provisions, or medical attendance, the local board shall furnish supplies and services during the period of isolation or quarantine and may delegate the duty, by rules, to one of its designated officers.

**Sec. 12. NEW SECTION. 139A.12 COUNTY LIABILITY FOR SUPPLIES.**

The local board shall provide proper care, provisions, and medical attendance for any person removed and isolated or quarantined in a separate house or hospital for detention and treatment, and the care, provisions, and medical attendance shall be paid for by the county in which the infected person has a legal settlement, if the patient or legal guardian is unable to pay.

**Sec. 13. NEW SECTION. 139A.13 RIGHTS OF ISOLATED OR QUARANTINED PERSONS.**

Any person removed and isolated or quarantined in a separate house or hospital may, at the person's own expense, employ the health care provider of the person's choice, and may provide such supplies and commodities as the person may require.

**Sec. 14. NEW SECTION. 139A.14 SERVICES OR SUPPLIES.**

All services or supplies furnished to persons under this chapter must be authorized by the local board or an officer of the local board, and a written order designating the person employed to furnish such services or supplies, issued before the services or supplies are furnished, shall be attached to the bill when presented for audit and payment.

**Sec. 15. NEW SECTION. 139A.15 FILING OF BILLS.**

All bills incurred under this chapter in establishing, maintaining, and terminating isolation and quarantine, in providing a necessary house or hospital for isolation or quarantine,

**CHAPTER 77****GAMBLING IN PUBLIC PLACES —  
NONPROFIT ORGANIZATIONS CONDUCTING BINGO OCCASIONS***H.F. 603*

**AN ACT** providing an exception to licensing requirements for certain bingo occasions conducted by nonprofit organizations.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 99B.9, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Except as otherwise permitted by section 99B.3, 99B.5, 99B.6, 99B.7, 99B.8, or 99B.11, or 99B.12A, it is unlawful to permit gambling on any premises owned, leased, rented, or otherwise occupied by a person other than a government, governmental agency or subdivision, unless all of the following are complied with:

Sec. 2. **NEW SECTION. 99B.12A BINGO EXCEPTION.**

An organization that is exempt from federal income taxes under section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in section 422.3, shall be authorized to conduct a bingo occasion without a license as otherwise required by this chapter if all of the following requirements are met:

1. Participants in the bingo occasion are not charged to enter the premises where bingo is conducted.
2. Participants in the bingo occasion are not charged to play.
3. Any prize awarded at the bingo occasion shall be donated.
4. The bingo occasion is conducted as an activity and not for fundraising purposes.

Approved April 25, 2003

**CHAPTER 78****PUBLIC HEALTH REGULATION — MISCELLANEOUS PROVISIONS***H.F. 641*

**AN ACT** providing for changes relating to programs under the purview of the Iowa department of public health.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 139A.8, subsection 1, Code 2003, is amended to read as follows:

1. A parent or legal guardian shall assure that the person's minor children residing in the state are adequately immunized against diphtheria, pertussis, tetanus, poliomyelitis, rubella, and rubella, and varicella according to recommendations provided by the department subject to the provisions of subsections 3 and 4.

Sec. 2. Section 139A.8, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. A person shall not be enrolled in any licensed child care center or elementary or secondary school in Iowa without evidence of adequate immunizations against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, ~~and rubella, and varicella.~~

Sec. 3. Section 139A.8, subsection 4, paragraph a, Code 2003, is amended to read as follows:

a. The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits to the admitting official a statement signed by a physician, advanced registered nurse practitioner, or physician assistant who is licensed by the state board of medical examiners, board of nursing, or board of physician assistant examiners that, ~~in the physician's opinion,~~ the immunizations required would be injurious to the health and well-being of the applicant or any member of the applicant's family.

Sec. 4. Section 152.1, subsection 5, paragraph b, Code 2003, is amended by striking the paragraph and inserting in lieu thereof the following:

b. The performance of nursing services by an unlicensed student enrolled in a nursing education program if performance is part of the course of study. Individuals who have been licensed as registered nurses or licensed practical or vocational nurses in any state or jurisdiction of the United States are not subject to this exemption.

Sec. 5. Section 152.1, subsection 5, paragraph c, Code 2003, is amended to read as follows:

c. The performance of services by ~~employed unlicensed~~ workers ~~employed~~ in offices, hospitals, or health care facilities, as defined in section 135C.1, under the supervision of a physician or a nurse licensed under this chapter, or employed in the office of a psychologist, podiatric physician, optometrist, chiropractor, speech pathologist, audiologist, or physical therapist licensed to practice in this state, and when acting while within the scope of the employer's license.

Sec. 6. Section 272C.3, subsection 1, paragraph k, Code 2003, is amended to read as follows:

k. Establish a licensee review committee for the purpose of evaluating and monitoring licensees who ~~self-report physical or mental impairments to the board are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability, and who self-report the impairment to the committee, or who are referred by the board to the committee.~~ The board shall adopt rules for the establishment and administration of the committee, including but not limited to establishment of the criteria for eligibility for referral to the committee and the grounds for disciplinary action for noncompliance with committee decisions. Information in the possession of the board or the licensee review committee, under this paragraph, shall be subject to the confidentiality requirements of section 272C.6. Referral of a licensee by the board to a licensee review committee shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. A licensee who violates section 272C.10 or the rules of the board while under review by the licensee review committee shall be referred to the board for appropriate action.

2007 2007 Acts, ch 10, § 24; (Approved March 7, 2007)

13

LAWS OF THE EIGHTY-SECOND G.A., 2007 SESSION

CH. 10

by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.

f. A procedure for the prompt investigation of complaints, either identifying the school superintendent or the superintendent's designee as the individual responsible for conducting the investigation, including a statement that investigators will consider the totality of circumstances presented in determining whether conduct objectively constitutes harassment or bullying under this section.

g. A statement of the manner in which the policy will be publicized.

4. **PROGRAMS ENCOURAGED.** The board of directors of a school district and the authorities in charge of each accredited nonpublic school are encouraged to establish programs designed to eliminate harassment and bullying in schools. To the extent that funds are available for these purposes, school districts and accredited nonpublic schools shall do the following:

a. Provide training on antiharassment and antibullying policies to school employees and volunteers who have significant contact with students.

b. Develop a process to provide school employees, volunteers, and students with the skills and knowledge to help reduce incidents of harassment and bullying.

5. **IMMUNITY.** A school employee, volunteer, or student, or a student's parent or guardian who promptly, reasonably, and in good faith reports an incident of harassment or bullying, in compliance with the procedures in the policy adopted pursuant to this section, to the appropriate school official designated by the school district or accredited nonpublic school, shall be immune from civil or criminal liability relating to such report and to participation in any administrative or judicial proceeding resulting from or relating to the report.

6. **COLLECTION REQUIREMENT.** The board of directors of a school district and the authorities in charge of each nonpublic school shall develop and maintain a system to collect harassment and bullying incidence data.

7. **INTEGRATION OF POLICY AND REPORTING.** The board of directors of a school district and the authorities in charge of each nonpublic school shall integrate its antiharassment and antibullying policy into the comprehensive school improvement plan required under section 256.7, subsection 21, and shall report data collected under subsection 6, as specified by the department, to the local community.

8. **EXISTING REMEDIES NOT AFFECTED.** This section shall not be construed to preclude a victim from seeking administrative or legal remedies under any applicable provision of law.

Approved March 5, 2007

## CHAPTER 10

### OCCUPATIONAL LICENSING AND REGULATION — HEALTH CARE PROFESSIONS

S.F. 74

**AN ACT** renaming health-related examining boards as licensing boards.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 3.20, subsection 2, Code 2007, is amended to read as follows:

2. The ~~examining~~ licensing board shall pursue a meaningful examination and enforcement procedure which upholds the level of competency of the licensee to insure that the public interest is protected.

Sec. 23. Section 136C.3, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Establish minimum training standards including continuing education requirements, and administer examinations and disciplinary procedures for operators of radiation machines and users of radioactive materials. A state of Iowa license to practice medicine, osteopathy, chiropractic, podiatry, dentistry, dental hygiene, or veterinary medicine, or licensure as a physician assistant pursuant to chapter 148C, or certification by the board of dental-examiners ~~dentistry~~<sup>5</sup> in dental radiography, or by the board of podiatry examiners in podiatric radiography, or enrollment in a program or course of study approved by the Iowa department of public health which includes the application of radiation to humans satisfies the minimum training standards for operation of radiation machines only.

Sec. 24. Section 139A.8, subsection 4, paragraph a, Code 2007, is amended to read as follows:

a. The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits to the admitting official a statement signed by a physician, advanced registered nurse practitioner, or physician assistant who is licensed by the board of medical-examiners ~~medicine~~, board of nursing, or board of physician assistant-examiners ~~assistants~~; that the immunizations required would be injurious to the health and well-being of the applicant or any member of the applicant's family.

Sec. 25. Section 139A.22, subsections 1, 3, 6, and 7, Code 2007, are amended to read as follows:

1. A hospital shall adopt procedures requiring the establishment of protocols applicable on a case-by-case basis to a health care provider determined to be infected with HIV or HBV who ordinarily performs exposure-prone procedures as determined by an expert review panel, within the hospital setting. The protocols established shall be in accordance with the recommendations issued by the centers for disease control and prevention of the United States department of health and human services. The expert review panel may be an established committee of the hospital. The procedures may provide for referral of the health care provider to the expert review panel established by the department pursuant to subsection 3 for establishment of the protocols. The procedures shall require reporting noncompliance with the protocols by a health care provider to the examining ~~licensing~~ board with jurisdiction over the relevant health care providers.

3. The department shall establish an expert review panel to determine on a case-by-case basis under what circumstances, if any, a health care provider determined to be infected with HIV or HBV practicing outside the hospital setting or referred to the panel by a hospital or health care facility may perform exposure-prone procedures. If a health care provider determined to be infected with HIV or HBV does not comply with the determination of the expert review panel, the panel shall report the noncompliance to the examining ~~licensing~~ board with jurisdiction over the health care provider. A determination of an expert review panel pursuant to this section is a final agency action appealable pursuant to section 17A.19.

6. The board of ~~medical-examiners medicine~~, the board of physician assistant-examiners ~~assistants~~, the board of podiatry ~~examiners~~, the board of nursing, the board of dental-examiners ~~dentistry~~,<sup>6</sup> and the board of optometry ~~examiners~~ shall require that licensees comply with the recommendations issued by the centers for disease control and prevention of the United States department of health and human services for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, with the recommendations of the expert review panel established pursuant to subsection 3, with hospital protocols established pursuant to subsection 1, and with health care facility procedures established pursuant to subsection 2, as applicable.

7. Information relating to the HIV status of a health care provider is confidential and subject to the provisions of section 141A.9. A person who intentionally or recklessly makes an unauthorized disclosure of such information is subject to a civil penalty of one thousand dollars.

<sup>5</sup> See chapter 218, §195 hereina.

<sup>6</sup> See chapter 218, §196 hereina.



2007 **2007 Acts, ch 11, § 1;** (approved March 9, 2007)

55

LAWS OF THE EIGHTY-SECOND G.A., 2007 SESSION

CH. 12

## CHAPTER 11

### INVASIVE PNEUMOCOCCAL DISEASE IMMUNIZATION

H.F. 245

AN ACT requiring invasive pneumococcal disease immunization for children enrolling in licensed child care centers.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 139A.8, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. Evidence of adequate immunization against haemophilus influenza B ~~and invasive pneumococcal disease~~ shall be required prior to enrollment in any licensed child care center.

Approved March 9, 2007

## CHAPTER 12

### INTERNAL REVENUE CODE REFERENCES UPDATE

H.F. 319

AN ACT updating the Code references to the Internal Revenue Code and including effective date and retroactive applicability provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 15.335, subsection 4, unnumbered paragraph 2, Code 2007, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2006~~ 2007.

Sec. 2. Section 15A.9, subsection 8, paragraph e, unnumbered paragraph 2, Code 2007, is amended to read as follows:

For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2006~~ 2007.

Sec. 3. Section 422.3, subsection 5, Code 2007, is amended to read as follows:

5. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, ~~2006~~ 2007.

Sec. 4. Section 422.10, subsection 3, unnumbered paragraph 2, Code 2007, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2006~~ 2007.

Sec. 5. Section 422.32, subsection 7, Code 2007, is amended to read as follows:

7. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of

2009 Acts, ch 41, § 263 (Approved April 3, 2009)

109

LAWS OF THE EIGHTY-THIRD G.A., 2009 SESSION

CH. 41

## CHAPTER 40

### EMERGENCY ASSISTANCE IMMUNITY — DISASTERS

S.F. 280

**AN ACT** relating to disaster emergency assistance immunity.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 613.17, subsection 1, unnumbered paragraph 1, Code 2009, is amended to read as follows:

A person, who in good faith renders emergency care or assistance without compensation, shall not be liable for any civil damages for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident or while the person is at or being moved to or from an emergency shelter unless such acts or omissions constitute recklessness or willful and wanton misconduct. An emergency includes but is not limited to a disaster as defined in section 29C.2 or the period of time immediately following a disaster for which the governor has issued a proclamation of a disaster emergency pursuant to section 29C.6.

Approved April 3, 2009

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## CHAPTER 41

### NONSUBSTANTIVE CODE CORRECTIONS

S.F. 446

**AN ACT** relating to nonsubstantive Code corrections and providing effective dates and for retroactive applicability.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I MISCELLANEOUS CHANGES

Section 1. Section 1.1, Code 2009, is amended to read as follows:

##### 1.1 STATE BOUNDARIES.

The boundaries of the state are as defined in the preamble of the Constitution of the State of Iowa.

Sec. 2. Section 2.32A, subsection 1, Code 2009, is amended to read as follows:

1. A member of the general assembly who is charged with making an appointment to a statutory board, commission, council, or committee shall make the appointment prior to the fourth Monday in January of the first regular session of each general assembly and in accordance with section 69.16B. If multiple appointing members are charged with making appointments of public members to the same board, commission, council, or committee, including as provided in section 333A.2, the appointing members shall consult with one another in making the appointments. If the senate appointing member for a legislative appointment is the president, majority leader, or the minority leader, the appointing authority member shall consult with the

e. 3. The seller must notify the buyer seasonably that there will be delay or nondelivery and, when allocation is required under ~~paragraph "b"~~ subsection 2, of the estimated quota thus made available for the buyer.

Sec. 260. Section 716.6, Code 2009, is amended to read as follows:

**716.6 CRIMINAL MISCHIEF IN THE FOURTH AND FIFTH DEGREES.**

1. Criminal mischief is criminal mischief in the fourth degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds two hundred dollars, but does not exceed five hundred dollars. Criminal mischief in the fourth degree is a serious misdemeanor.

2. All criminal mischief which is not criminal mischief in the first degree, second degree, third degree, or fourth degree is criminal mischief in the fifth degree. Criminal mischief in the fifth degree is a simple misdemeanor.

Sec. 261. Section 805.8A, subsection 1, paragraph a, Code 2009, is amended to read as follows:

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars, except if the local authority has established the fine by ordinance pursuant to section 321.236, subsection 1. The scheduled fine for a parking violation pursuant to section 321.236 increases by five dollars, as authorized by ordinance pursuant to section 321.236, subsection 1, if the parking violation is not paid within thirty days of the date upon which the violation occurred. For purposes of calculating the unsecured appearance bond required under section 805.6, the scheduled fine shall be five dollars, or if the amount of the fine is greater than five dollars, the unsecured appearance bond shall be the amount of the fine established by the local authority pursuant to section 321.236, subsection 1. However, violations charged by a city or county upon simple notice of a fine instead of a uniform citation and complaint as permitted by section 321.236, subsection 1, paragraph "a" ~~"b"~~, subparagraph (1), are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 321.362 or 461A.38, the scheduled fine is ten dollars.

Sec. 262. Section 907.3A, subsection 1, Code 2009, is amended to read as follows:

1. Notwithstanding section 907.3 but subject to any conditions of the waiver order, the trial court shall, upon a plea of guilty or a verdict of guilty, defer sentence of a youthful offender over whom the juvenile court has waived jurisdiction pursuant to section 232.45, subsection 7, and place the juvenile on youthful offender status. The court shall transfer supervision of the youthful offender to the juvenile court for disposition in accordance with section 232.52. The court shall require supervision of the youthful offender in accordance with section 232.54, subsection 8 1, ~~paragraph "h"~~, or subsection 2 of this section. Notwithstanding section 901.2, a presentence investigation shall not be ordered by the court subsequent to an entry of a plea of guilty or verdict of guilty or prior to deferral of sentence of a youthful offender under this section.

Sec. 263. **CODE EDITOR DIRECTIVES.**

1. The Code editor is directed to renumber sections 554.2308, 554.2310, 554.2317, 554.2324, 554.2515, 554.2601, 554.2610, 554.2613, 554.2722, 554.4407, and 554.4503, Code 2009, in accordance with established Code section hierarchy and correct internal references in the Code and in any enacted Iowa Acts as necessary.

2. The Code editor is directed to number or renumber to eliminate unnumbered paragraphs in sections 85B.5, 123.107, 124.203, 126.15, 135B.11, 137F.7, 138.12, 147A.8, 152B.3, 154A.12, 160.5, 172A.11, 174.12, 182.15, 183A.5, 184.4, 189.9, 189A.3, 190.3, 199.7, 215A.6, 218.95, 222.43, 225C.37, 226.7, 229.25, 231.14, 236.3, 241.2, 252H.2, 280.9, 358.20, and 441.19, Code 2009, and correct internal references in the Code and in any enacted Iowa Acts as necessary.

3. The Code editor is directed to number or renumber to eliminate unnumbered paragraphs

within the following subunits in sections 85.38, subsection 2; 123.30, subsection 3; 123.53, subsection 2; 125.13, subsection 1; 125.80, subsection 1; 126.18, subsection 2; 135C.19, subsection 2; 135C.23, subsection 2; 135C.30, subsection 4; 139A.8, subsection 4; 142A.4, subsection 9; 148C.4, subsection 2; 153.33, subsection 1; 164.30, subsection 2; 166D.9, subsection 3; 175.36, subsection 1; 200.3, subsection 13; 200.8, subsection 1; 200.10, subsection 2; 200A.6, subsection 2; 203.19, subsection 2; 203C.12A, subsection 9; 206.19, subsection 5; 206.31, subsection 2; 207.12, subsection 1; 207.13, subsection 1; 214A.2, subsection 2; 216.17, subsection 1; 222.73, subsection 2; 226.1, subsection 2; 228.2, subsection 2; 228.5, subsection 2; 228.7, subsection 2; 229.2, subsection 1; 231C.17, subsection 4; 232.8, subsection 3; 232.21, subsection 2; 232.45, subsections 7, 11, and 14; 232.98, subsection 1; 232.102, subsection 1; 232.147, subsection 6; 234.1, subsection 2; 235A.1, subsection 1; 238.2, subsection 2; 237.20, subsections 1 and 4; 239B.2, subsection 3; 252.16, subsection 4; 252E.5, subsection 6; 252F.3, subsection 3; 252G.4, subsection 1; 256.44, subsection 1, paragraph "b"; 260C.22, subsections 3 and 4; 261A.7, subsection 4; 272C.3, subsection 4; 273.10, subsections 3 and 6; 275.25, subsections 1 and 2; and 424.3, subsection 1; Code 2009, and correct internal references in the Code and in any enacted Iowa Acts as necessary.

4. The Code editor is directed to strike the words "subparagraph subdivision" or "subparagraph subdivisions" and insert the words "subparagraph division" or "subparagraph divisions", as appropriate, in sections 7K.1, 8.41, 12C.16, 15A.9, 15E.208, 15E.209, 15G.203, 16.100, 34A.7A, 96.19, 97B.1A, 97B.8B, 97B.80C, 100B.31, 124.401, 135.11, 142C.3, 154C.3, 216.8A, 232.22, 235B.3, 235E.2, 249H.7, 257.31, 260C.18C, 321.105A, 331.441, 422.5, 427.1, 455B.474, 455E.11, 455F.8A, 455G.1, 455J.7, 457B.1, 490.1110, 501.412, 502A.4, 505A.1, 518.14, 518A.12, 523A.901, 523H.6, 602.8107, and 692B.2, Code 2009.

### DIVISION III EFFECTIVE DATES

#### Sec. 264. EFFECTIVE DATES — APPLICABILITY.

1. The section of this Act, amending 2008 Iowa Acts, chapter 1088, section 44, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2008.

2. The section of this Act, adding a new section to 2008 Iowa Acts, chapter 1088, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2008.

3. The section of this Act, amending 2008 Iowa Acts, chapter 1181, section 5, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2008.

4. The section of this Act, amending section 261E.12, subsection 1, paragraph "d", as enacted by 2008 Iowa Acts, chapter 1181, section 63, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2008.

5. The section of this Act, amending 2008 Iowa Acts, chapter 1187, section 9, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2008.

6. The section of this Act, adding a new section to 2008 Iowa Acts, chapter 1191, takes effect August 1, 2009.

Approved April 3, 2009

Kansas  
LexisNexis Academic

LexisNexis (R) KANSAS ANNOTATED STATUTES

\*\*\* This document is current through the 2012 Supplement \*\*\*

\*\*\* Annotations current through October 30, 2013 \*\*\*

Chapter 65. PUBLIC HEALTH

Article 5. MATERNITY CENTERS AND CHILD CARE FACILITIES

GO TO KANSAS STATUTES ARCHIVE DIRECTORY

**K.S.A. § 65-508 (2012)**

**65-508.** Equipment, supplies, accommodations; competent supervision and care of children; rules and regulations; immunizations.

(a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, safety and welfare of any woman or child.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) (1) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of any woman or child served in such facilities by ensuring safe and adequate physical surroundings, healthful food, adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation, supervision and care of the residents by capable, qualified persons of sufficient number, after hour care, an adequate program of activities and services, sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills, emergency plans, safety of outdoor playground surfaces, door locks, safety gates

and transportation and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

(2) Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in day care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices.

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

**HISTORY:** L. 1919, ch. 210, § 8; R.S. 1923, 65-508; L. 1951, ch. 358, § 4; L. 1974, ch. 352, § 90; L. 1978, ch. 236, § 7; L. 1992, ch. 55, § 2; L. 1994, ch. 279, § 11; L. 1995, ch. 183, § 9; L. 1998, ch. 166, § 2; L. 2010, ch. 161, § 8; L. 2012, ch. 99, § 4; July 1.

## NOTES:

Attorney General's Opinions:

Licensed child care facility may be used to house children ages 16 and 17. 1999-47.

## CASE ANNOTATIONS

1. Cited; the state has a legitimate and compelling interest to protect children and may require private establishments which provide residential care for children to be licensed. State ex rel. O'Sullivan v. Heart Ministries, Inc., 227 K. 244, 248, 607 P.2d 1102.

LexisNexis (R) Notes:

## CASE NOTES

1. Because a child care operator was given adequate notice of her violations of state regulations governing child care centers adopted under Kan. Stat. Ann. § 65-508, of how much time she had to correct them, and of the consequences of noncompliance, her license to operate the center was properly revoked pursuant to Kan. Stat. Ann. § 65-504(d) when she failed to correct the violations. Rocking Horse Academy v. Kansas Dep't of Health & Environment, 798 P.2d 974, 1988 Kan. App. LEXIS 350 (Kan. Ct. App. 1988).

2. Because a child care operator was given adequate notice of her violations of state regulations governing child care centers adopted under Kan. Stat. Ann. § 65-508, of how much time she had to correct them, and of the consequences of noncompliance, her license to operate the center was properly revoked pursuant to Kan. Stat. Ann. § 65-504(d) when she failed to correct the violations. Rocking Horse Academy v. Kansas Dep't of Health & Environment, 798 P.2d 974, 1988 Kan. App. LEXIS 350 (Kan. Ct. App. 1988).

## OPINIONS OF ATTORNEY GENERAL

1. Public Health--Maternity Centers and Child Care Facilities--License or Temporary Permit Required; Exemptions; Definitions; Competent Supervision and Care of Children, Attorney General Opinion No. 2013-09, 2013 Kan. AG LEXIS 9.

2. Public Health--Homes for Children--Licensure of Boarding Homes for Children, ATTORNEY GENERAL OPINION No. 82-2, 1982 Kan. AG LEXIS 283.

3. Public Health -- Maternity Hospitals or Homes and Homes for Children -- License or Temporary Permit Required; Boarding Home for Children Defined, ATTORNEY GENERAL OPINION No. 93-4, 1993 Kan. AG LEXIS 6.

4. Public Health--Maternity Centers and Child Care Facilities--Definitions Relating to Child Care Facilities; License and Regulation of Facilities Housing Children Ages 16 and 17, ATTORNEY GENERAL OPINION No. 99-47, 1999 Kan. AG LEXIS 52.

5. Public Health -- Maternity Hospitals or Homes and Homes for Children -- License or Temporary Permit Required; Boarding Home for Children Defined, Attorney General Opinion No. 93-4, 1993 Kan. AG LEXIS 164.

All Statutes / amendments take effect once printed in



1992 L. 1992, ch. 55, § 2; (Approved April 9, 1992)

174

1992 Session Laws of Kansas

Ch. 55]

## CHAPTER 55

House Bill No. 2694

AN ACT concerning homes for children; relating to immunization of children cared for; amending K.S.A. 65-508 and K.S.A. 1991 Supp. 65-519 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1991 Supp. 65-519 is hereby amended to read as follows: 65-519. (a) The secretary shall issue a certificate of registration to any person who applies for registration on forms furnished by the secretary, who attests to the safety of the family day care home for the care of children, who submits a fee of \$5 payable to the secretary of health and environment, and who certifies that no person described in paragraphs (1), (2), (3), (4), (5) or (6) of subsection (a) of K.S.A. 65-516 and amendments thereto resides, works or volunteers in the family day care home.

(b) The secretary shall furnish each applicant for registration a family day care home safety evaluation form to be completed by the applicant and submitted with the registration application.

(c) (1) *On and after January 1, 1993, each child cared for in a family day care home, including children of the person maintaining the home, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a family day care home shall maintain a record of each child's immunizations, and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary.*

(2) *The immunization requirement of subsection (c)(1) shall not apply if one of the following is obtained:*

(A) *Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or*

(B) *a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.*

(d) The certificate of registration shall be renewed annually in the same manner provided for in this section.

~~(d)~~ (e) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this act to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury, and such amount shall be credited to the state general fund.

Sec. 2. K.S.A. 65-508 is hereby amended to read as follows: 65-

508. (a) Any maternity hospital, or home for children coming under the provisions of this act shall be properly heated, plumbed, lighted and ventilated; and shall be conducted in every department with strict regard to the health, comfort, safety and social welfare of the ~~inmates~~ residents. In all cities, towns and villages where there is a system of waterworks and sewerage maintained for public use, every maternity hospital or home, or home for children shall be equipped with suitable toilets, lavatories, bathtubs, sinks and drains, shall be connected by proper plumbing with such water and sewerage systems; and shall be kept at all times in a clean and sanitary condition. In all cities, towns or villages not having a system of waterworks or sewerage for public use, every maternity hospital or home, or home for children shall have properly constructed privies or overvaults to receive night soil, the same to be ventilated, screened, disinfected, kept free from foul odor, all times in a clean and sanitary condition.

(b) Every maternity hospital or home, or home for children shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity hospital or home, or home for children shall be provided with one fire extinguisher of a style and size approved by the state fire marshal; and every maternity hospital or home, or home for children which is more than one story high and containing and offering accommodations for, at any one time, ~~ten (10)~~ 10 or more maternity patients, or ~~ten (10)~~ 10 or more children, shall be provided with a suitable fire escape constructed of iron or steel, approved by the state fire marshal.

(c) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity hospitals or homes, or homes for children and for the granting, suspending or revoking of licenses. The rules and regulations for operating and maintaining maternity hospitals or homes, or homes for children shall be designed to promote the health, safety and welfare of the residents who are to be served in such facilities by assuring safe and adequate physical surroundings, healthful food, supervision and care of the residents by capable, qualified persons of sufficient number, an adequate program of activities and services and such appropriate parental participation as may be feasible under the circumstances. The rules and regulations with respect to granting, suspending and revoking licenses shall be designed to promote the

proper and efficient processing of matters relating to licensure to assure applicants and licensees fair and expeditious treatment under the law.

*(d) On and after January 1, 1993, each child cared for in a boarding home for children, including children of the person maintaining the home, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a boarding home for children shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary.*

*(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:*

*(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or*

*(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.*

Sec. 3. K.S.A. 65-508 and K.S.A. 1991 Supp. 65-519 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 9, 1992.

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## CHAPTER 56

House Bill No. 2440

AN ACT relating to small employer health benefit plans; concerning employer participation eligibility; amending K.S.A. 1991 Supp. 40-2242 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1991 Supp. 40-2242 is hereby amended to read as follows: 40-2242. (a) As a condition to participation as a member of any small employer health benefit plan as provided in K.S.A. ~~1990~~ 1991 Supp. 40-2240 and amendments thereto, an employer shall:

(1) Employ no more than ~~25~~ 50 employees who do not have health insurance as a spouse, dependent or otherwise or who are not eligible for medicaid or state medical assistance;

(2) have not contributed within the preceding two years to any health insurance premium on behalf of an employee who is to be

1994 L. 1994, ch. 279, § 11; (Approved April 24, 1994)

[Ch. 279 1994 Session Laws of Kansas 1297

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 25, 1994.

## CHAPTER 278

### SENATE BILL No. 607 \*

AN ACT concerning civil procedure and civil actions; relating to limitation of civil actions related to Dalkon Shield victims.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. (a) Except as provided in subsection (c), notwithstanding any other limitation contained in article 5 of chapter 60 of the Kansas Statutes Annotated, any civil action, except an action for relief on the ground of fraud, brought by, or on behalf of, any Dalkon Shield victim against the Dalkon Shield claimant's trust, shall be brought in accordance with procedures established by the A.H. Robins company, inc. plan of reorganization, and shall be brought within 10 years of the time in which such cause of action shall have accrued.

(b) Any civil action for relief on the ground of fraud brought by, or on behalf of, any Dalkon Shield victim against the Dalkon Shield claimant's trust, shall not be deemed to have accrued until the fraud of A.H. Robins company, inc. was discovered, without regard to the date any physical injury occurred.

(c) The provisions of this act shall not affect any applicable statute of repose as otherwise provided by law.

(d) The provisions of this section shall be part of and supplemental to the provisions of article 5 of chapter 60 of the Kansas Statutes Annotated.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 25, 1994.

## CHAPTER 279

### HOUSE Substitute for SENATE BILL No. 615

(Amended by Chapter 352)

AN ACT concerning children; establishing state child care policy; relating to licensure of maternity centers and licensure and registration of providers of care for children; concerning smoking in day care homes; concerning the review of child deaths; relating to early childhood development services; amending K.S.A. 39-623, as amended by section 2 of 1994 House Substitute for Senate Bill No. 397, 65-501, 65-502, 65-503, 65-504, 65-505, 65-506, 65-507, 65-508, 65-510, 65-512, 65-513, 65-516, 65-517, 65-518, 65-519, 65-521, 65-523, 65-524, 65-526, 74-7801, 74-7802 and 74-7803 and K.S.A. 1993 Supp. 22a-242, 22a-243, 59-2123, 75-6506 and 75-6508 and repealing the existing sections; and repealing K.S.A. 65-511.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. (a) The desired outcome of the child care policy of the state of Kansas is that families be able to fulfill their roles as

Sec. 10. K.S.A. 65-507 is hereby amended to read as follows: 65-507. The licensee of a maternity hospital or home (a) *Each maternity center licensee* shall keep a record upon forms prescribed and provided by the secretary of health and environment and the secretary of social and rehabilitation services, wherein shall be entered the true which shall include the name of every patient, together with her the patient's place of residence during the year preceding admission to the hospital or home; center and the name and address of the attending physician or midwife who attends each birth taking place in such hospital or home; and the licensee of a home for children. *Each child care facility licensee* shall keep a record upon forms prescribed and provided by the secretary of health and environment, wherein shall be entered which shall include the name and age of each child received and cared for in such home the facility; the name of the physician who attended any sick children therein in the facility, together with the names and addresses of the parents or guardians of such children; and such other information as the secretary of health and environment or secretary of social and rehabilitation services may require. The licensee of a maternity hospital or home, or home for children *Each maternity center licensee and each child care facility licensee* shall apply to and shall receive gratuitously without charge from the secretary of health and environment and the secretary of social and rehabilitation services forms for such records as may be required, which forms shall contain a copy of this act.

(b) *Information obtained under this section shall be confidential and shall not be made public in a manner which would identify individuals.*

Sec. 11. K.S.A. 65-508 is hereby amended to read as follows: 65-508. (a) Any maternity hospital, or home for children coming under center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated and shall be conducted in every department; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, comfort, safety and social welfare of the residents. In all cities, towns and villages where there is a system of waterworks and sewerage maintained for public use, every maternity hospital or home, or home for children shall be equipped with suitable toilets, lavatories, bathtubs, sinks and drains, shall be connected by proper plumbing with such water and sewerage systems and shall be kept at all times in a clean and sanitary condition. In all cities, towns or villages not having a system of waterworks or sewerage for public use, every maternity hospital or home, or home for children shall have properly constructed privies or overvaults to receive night soil, the same to be ven-

tilated, screened, disinfected, kept free from foul odor, all times in a clean and sanitary condition.

(b) Every maternity hospital or home, or home for children *center or child care facility* shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity hospital or home, or home for children shall be provided with one fire extinguisher of a style and size approved by the state fire marshal; and every maternity hospital or home, or home for children which is more than one story high and containing and offering accommodations for, at any one time, 10 or more maternity patients, or 10 or more children, shall be provided with a suitable fire escape constructed of iron or steel, approved by the state fire marshal *center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.*

(c) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity hospitals or homes, or homes for children and for the granting, suspending or revoking of licenses *centers and child care facilities*. The rules and regulations for operating and maintaining maternity hospitals or homes, or homes for children *centers and child care facilities* shall be designed to promote the health, safety and welfare of the residents who are to be served in such facilities by assuring *ensuring* safe and adequate physical surroundings, healthful food, supervision and care of the residents by capable, qualified persons of sufficient number, an adequate program of activities and services and such appropriate parental participation as may be feasible under the circumstances. The rules and regulations with respect to granting, suspending and revoking licenses shall be designed to promote the proper and efficient processing of matters relating to licensure to assure applicants and licensees fair and expeditious treatment under the law.

(d) On and after January 1, 1993, Each child cared for in a boarding home for children *child care facility*, including children of the person maintaining the home *facility*, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a boarding home for children *child care facility* shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary.

(c) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

Sec. 12. K.S.A. 65-510 is hereby amended to read as follows: 65-510. It shall be unlawful for any ~~home for children~~ *child care facility* to receive or care for any adult except as authorized by rules and regulations adopted by the secretary of health and environment.

Sec. 13. K.S.A. 65-512 is hereby amended to read as follows: 65-512. It is hereby made the duty of the ~~division of health of the department~~ *secretary* of health and environment to inspect or cause to be inspected at least once every 12 months every maternity hospital or home, or ~~home for children center or child care facility~~, and for that purpose it shall have the right of entry and access thereto in every department and to every place in the premises, shall call for and examine the records which are required to be kept by the provisions of this act and shall make and preserve a record of every inspection. The licensee shall give all reasonable information to the authorized agent of the secretary of health and environment and shall afford every reasonable facility for viewing the premises and seeing the patients or ~~residents~~ *children* therein. No ~~such~~ patient or ~~resident~~ *child* without the consent of the patient or ~~resident~~ *child* shall be required to be interviewed by any agent unless the agent is an authorized person or a licensed physician.

Sec. 14. K.S.A. 65-513 is hereby amended to read as follows: 65-513. Whenever an authorized agent of the secretary of health and environment or secretary of social and rehabilitation services finds a maternity hospital or home, or ~~home for children center or child care facility~~ is not being conducted according to law, it shall be the duty of such agent to notify the licensee in writing of such changes or alterations as the agent ~~shall deem~~ *determines* necessary in order to comply with the requirements of the law, and the agent shall file a copy of such notice with the secretary of health and environment. It shall thereupon be the duty of the licensee to make such changes or alterations as are contained in the written notice within five days from the receipt of such notice. Notice shall be given in accordance with the provisions of the Kansas administrative procedure act.

Sec. 15. K.S.A. 65-516 is hereby amended to read as follows: 65-516. (a) No person shall knowingly maintain a ~~boarding home for children~~ *child care facility* or maintain a family day care home

1995 **L. 1995, ch. 183, § 9;** (Approved April 19, 1995)

[Ch. 183

1995 Session Laws of Kansas

615

5; thence south along ~~said the~~ east line to the point of beginning, less any existing public road right-of-way.

(b) Such lease shall be signed by the ~~governor of the state of Kansas secretary of the state historical society~~, attested by the secretary of state and signed by the governing body of ~~said the~~ city or its authorized representative. The lease shall be for a period of ~~fifteen (15)~~ 15 years and shall be entered into upon such terms and conditions as the ~~governor secretary of the state historical society~~ and the governing body of such city shall agree to, consistent with the provisions of K.S.A. 76-2007b and ~~76-2007e, and amendments thereto~~, and such lease shall require that the real estate so leased shall be maintained and operated by ~~said the~~ city at no cost to the state.

Sec. 2. K.S.A. 76-2007b is hereby amended to read as follows: 76-2007b. The lease entered into pursuant to the provisions of ~~this act K.S.A. 76-2007a, and amendments thereto~~, shall be renewable at the end of ~~fifteen (15)~~ 15 years or may be deemed cancelled at the instance of either of the parties thereto. Such lease shall be deemed cancelled automatically, after notice thereof to the governing body of the city, if any of the provisions of ~~K.S.A. 76-2007e the lease~~ are violated.

Sec. 3. K.S.A. 76-2007a, 76-2007b and 76-2007c are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 19, 1995.

Published in the Kansas Register April 27, 1995.

## CHAPTER 183

### SENATE BILL No. 36

AN ACT relating to families; concerning the health thereof; amending K.S.A. 40-2,102 and K.S.A. 1994 Supp. 40-2209h, 65-508 and 65-519 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 40-2,102 is hereby amended to read as follows: 40-2,102. (a) (1) All individual and group health insurance policies providing coverage on an expense incurred basis and, individual and group service or indemnity type contracts issued by a profit or nonprofit corporation ~~and all contracts issued by health maintenance organizations organized or authorized to transact business in this state~~ which provides coverage for a family member of the ~~enrollee~~, insured or subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a: ~~(1)~~ (A) Newly born child of the ~~enrollee~~, insured or subscriber from the moment of



ployer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

(d) Upon written application of the group policyholders, the commissioner may suspend the application of K.S.A. 40-2209g and 40-2209h and amendments thereto to any group whose fundamental structure or composition would otherwise be adversely affected.

Sec. 9. K.S.A. 1994 Supp. 65-508 is hereby amended to read as follows: 65-508. (a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, comfort, safety and social welfare of the residents.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of the residents who are to be served in such facilities by ensuring safe and adequate physical surroundings, healthful food, supervision and care of the residents by capable, qualified persons of sufficient number, an adequate program of activities and services and such appropriate parental participation as may be feasible under the circumstances.

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, *but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.*

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

Sec. 10. K.S.A. 1994 Supp. 65-519 is hereby amended to read as follows: 65-519. (a) The secretary shall issue a certificate of registration to any person who: (1) Applies for registration on forms furnished by the secretary; (2) attests to the safety of the family day care home for the care of children; (3) submits a fee of not to exceed \$15 as established by rules and regulations of the secretary of health and environment payable to the secretary of health and environment; and (4) certifies that no person described in subsection (a)(1), (2), (3), (4), (5) or (6) of K.S.A. 65-516 and amendments thereto resides, works or volunteers in the family day care home. The fee in effect under this subsection (a) immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary of health and environment by rules and regulations under this subsection.

(b) The secretary shall furnish each applicant for registration a family day care home safety evaluation form to be completed by the applicant and submitted with the registration application.

(c) (1) Each child cared for in a family day care home, including children of the person maintaining the home, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a family day care home shall maintain a record of each child's immunizations, and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, *but the person maintaining a family day care home shall not have such person's certificate of registration revoked solely for the failure to have or to maintain the immunization records required by this subsection.*

(2) The immunization requirement of subsection (c)(1) shall not apply if one of the following is obtained:

(A) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(B) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

(d) The secretary of health and environment shall provide to each person maintaining a registered family day care home a list of the requirements for registration of family day care homes. The person maintaining a family day care home shall provide a copy of such list to the parent or guardian of each child cared for in such home and shall maintain on the premises a copy of the list which has been signed and dated by the parent or guardian.

1998 L. 1998, ch. 166, § 2;

1046

1998 Session Laws of Kansas

Ch. 166]

ucation. An applicant who fails to be designated as a vocational education scholar and to be awarded a vocational education scholarship shall not be disqualified from applying therefor in a later school year so long as all requirements for eligibility to apply for such designation and award are met;

~~(e)~~ (3) in each school year, ~~commencing with the 1988-89 school year,~~ the board of regents ~~shall~~ may renew the award of vocational education scholarships to all vocational education scholars who remain eligible and qualified.

~~(d)~~ (b) A vocational education scholar who is eligible for the award of a state scholarship under the provisions of article 68 of chapter 72 of Kansas Statutes Annotated may be awarded such state scholarship in addition to a vocational education scholarship. The amount received by a vocational education scholar under a vocational education scholarship shall not be considered in determining financial need under the state scholarship program.

Sec. 10. K.S.A. 72-4461, 72-6816, 74-3286 and 74-3290 and K.S.A. 1997 Supp. 72-6107, 72-6108, 72-6109, 72-6110, 72-6111, 72-6112, 72-6113, 74-32,120, 74-32,121, 74-32,122, 74-32,123, 74-32,124 and 74-32,125 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 13, 1998.

## CHAPTER 166

HOUSE BILL No. 2837

AN ACT concerning schools and school districts; relating to the regulation of boarding schools; authorizing boards of education to enter into contracts with municipalities for food service; amending K.S.A. 1997 Supp. 65-503, 65-508 and 72-5126 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1997 Supp. 65-503 is hereby amended to read as follows: 65-503. As used in this act:

(a) "Child placement agency" means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care.

(b) "Child care resource and referral agency" means a business or service conducted, maintained or operated by a person engaged in providing resource and referral services, including information of specific services provided by child care facilities, to assist parents to find child care.

(c) (1) "Child care facility" means:

(A) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging,

or both, except children related to the person by blood, marriage or legal adoption;

(B) a children's home, orphanage, maternity home, day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act;

(C) a child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or

(D) any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.

(2) "Child care facility" shall not include a family day care home defined in K.S.A. 65-517 and amendments thereto.

(d) "Person" means any individual, association, partnership, corporation, government, governmental subdivision or other entity.

(e) *"Boarding school" means a facility which provides 24-hour care to school age children, provides education as its primary function, and is accredited by an accrediting agency acceptable to the secretary of health and environment.*

Sec. 2. K.S.A. 1997 Supp. 65-508 is hereby amended to read as follows: 65-508. (a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, comfort, safety and social welfare of the residents.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of the residents who are to be served in such facilities by ensuring safe and adequate physical surroundings, healthful food, supervision and care of the residents by capable, qualified persons of sufficient number, an adequate program of activities and services and such appropriate parental participation as may be feasible under the circumstances. *Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.*

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health

and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

Sec. 3. K.S.A. 1997 Supp. 72-5126 is hereby amended to read as follows: 72-5126. (a) The board of education of any school district may enter into contracts with:

(1) The governing authority of any nonpublic school or any child-care institution for the provision of meals for children in attendance at such nonpublic school or child-care institution; and

(2) *the governing body of any municipality for the provision of meals to persons for whom the municipality is responsible for providing meals.*

(b) *Any such contract entered into by a board of education pursuant to the provisions of this section shall provide for payment by the nonpublic school or, child-care institution, or municipality, as applicable, of the costs incurred by the school district. Moneys received by a school district under any such contract entered into pursuant to the provisions of this section shall be deposited in the food service fund of the district and may be expended whether budgeted or not.*

~~(b)~~ (c) The provisions contained in article 51 of chapter 72 of Kansas Statutes Annotated, except the provisions contained in K.S.A. 72-5117 and 72-5118, and amendments thereto, shall apply to meals provided by the board of education of a school district under any contract entered into pursuant to the provisions of this section.

~~(e)~~ (d) As used in this section, the term "nonpublic school" means a nonpublic school approved by the state board of education for participation in food service programs defined in K.S.A. 72-5112, and amendments thereto, and the term "child-care institution" has the meaning ascribed thereto in K.S.A. 72-5124, and amendments thereto, *and the term "municipality" means any county, township, city, or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.*

Sec. 4. K.S.A. 1997 Supp. 65-503, 65-508 and 72-5126 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 13, 1998.

2010 **L. 2010, ch. 161, § 8;** (Approved May 27, 2010)

1986

2010 Session Laws of Kansas

Ch. 161]

## CHAPTER 161

SENATE Substitute for HOUSE BILL No. 2356

AN ACT concerning child care; relating to supervision of children in child care facilities; amending K.S.A. 39-7,129, 65-504, 65-505, 65-506, 65-508, 65-512, 65-523, 65-524, 65-530 and 65-531 and K.S.A. 2009 Supp. 59-29a11, 65-503, 65-516, 65-525 and 65-526 and repealing the existing sections; also repealing K.S.A. 65-517, 65-518, 65-519, 65-520, 65-521 and 65-522.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. The changes to law in this act shall be known as Lexie's law.

Sec. 2. K.S.A. 39-7,129 is hereby amended to read as follows: 39-7,129. The secretary of social and rehabilitation services shall adjust, by rules and regulations, the program requirements for aid to families with dependent children provided through the department of social and rehabilitation services to include requirements that, as a condition for continued eligibility for aid to families with dependent children, the family comply with laws providing for immunization and vaccination of children attending school; ~~or a child care facility or a family day care home.~~ The secretary of health and environment shall provide to the secretary of social and rehabilitation services current information on the requirements of these laws which relate to the immunization and vaccination of children.

Sec. 3. K.S.A. 2009 Supp. 59-29a11 is hereby amended to read as follows: 59-29a11. (a) Nothing in this act shall prohibit a person from filing a petition for transitional release, conditional release or final discharge pursuant to this act. However, if a person has previously filed a petition for transitional release, conditional release or final discharge without the secretary of the department of social and rehabilitation services approval and the court determined either upon review of the petition or following a hearing, that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that the person was safe to be at large, then the court shall deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from committed persons without the secretary's approval, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds and if so shall deny the petition without a hearing.

(b) No transitional release or conditional release facility or building shall be located within 2,000 feet of a licensed child care facility, ~~registered family day care home~~, an established place of worship, any residence in which a child under 18 years of age resides, or the real property of any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any

*ment to administer the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated. Nothing in this act shall be construed to authorize a reduction or elimination of moneys made available by the state to local units of government for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated.*

Sec. 7. K.S.A. 65-506 is hereby amended to read as follows: 65-506. The secretary of health and environment shall serve notice of the issuance, suspension or revocation of a license to conduct a maternity center or child care facility ~~or the issuance, suspension or revocation of a certificate of registration for a family day care home~~ to the secretary of social and rehabilitation services, juvenile justice authority, department of education, office of the state fire marshal, county, city-county or multi-county department of health, and to any licensed child placement agency or licensed child care resource and referral agency serving the area where the center or facility is located. A maternity center or child care facility that has had a license suspended, revoked or denied by the secretary of health and environment ~~or a family day care home that has had a certificate of registration suspended, revoked or denied by the secretary of health and environment~~ shall notify in writing the parents or guardians of the enrollees of the suspension, revocation or denial. Neither the secretary of social and rehabilitation services nor any other person shall place or cause to be placed any maternity patient or child under 16 years of age in any maternity center or child care facility not licensed by the secretary of health and environment ~~or family day care home not holding a certificate of registration from the secretary of health and environment.~~

Sec. 8. K.S.A. 65-508 is hereby amended to read as follows: 65-508. (a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, comfort, safety and social welfare of the residents.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) (1) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of the residents who

are to be served in such facilities by ensuring safe and adequate physical surroundings, healthful food, *adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation*, supervision and care of the residents by capable, qualified persons of sufficient number, *after hour care*, an adequate program of activities and services, *sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills, emergency plans, safety of outdoor playground surfaces, door locks, safety gates and transportation* and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents. *The notice of hearing on initial rules and regulations proposed to be adopted to carry out the amendments to this subsection (c)(1) by this act shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.*

(2) *Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in child care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices. The notice of hearing on initial rules and regulations proposed to be adopted under this subsection (c)(2) shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.*

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical



condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

Sec. 9. K.S.A. 65-512 is hereby amended to read as follows: 65-512.

(a) It is hereby made the duty of the secretary of health and environment to inspect or cause to be inspected at least once every ~~12~~ 15 months prior to July 1, 2012, and once every 12 months thereafter, every maternity center or child care facility, ~~and for that purpose it unless otherwise provided in subsections (b) and (c). For the purpose of inspection the secretary or the secretary's authorized agent shall have the right of entry and access thereto in every department and to every place in the premises, shall call for and examine the records which are required to be kept by the provisions of this act and shall make and preserve a record of every inspection. The licensee shall give all reasonable information to the authorized agent of the secretary of health and environment and shall afford every reasonable facility for viewing the premises and seeing the patients or children therein. No such patient or child without the consent of the patient or child shall be required to be interviewed by any agent unless the agent is an authorized person or a licensed physician.~~

(b) (1) *On or after the effective date of this act, the secretary of health and environment shall commence the inspection of registered family day care homes pursuant to section 17 and amendments thereto.*

(2) *The secretary of health and environment shall conduct an inspection of any child care facility upon receiving a complaint. Any new child care facility shall be inspected prior to issuance of a license. The secretary may conduct an inspection of any child care facility that has a record of repeated complaints or serious violations at any time. The secretary shall inspect any child care facility that provides services to military families receiving military assistance for child care every 12 months.*

(c) (1) *Except as provided in subsection (b)(2), the following categories of child care facilities which were in compliance on the effective date of this act are not required to be inspected until July 1, 2011: Day care homes, as defined in K.A.R. 28-4-113; group day care homes, as defined in K.A.R. 28-4-113; child care centers, as defined in K.A.R. 28-4-420; preschools, as defined in K.A.R. 28-4-420; school-age programs, as defined in K.A.R. 28-4-576; and drop-in programs, as defined in K.A.R. 28-4-700.*

(2) *The provisions of this subsection shall expire on July 1, 2011.*

Sec. 10. K.S.A. 2009 Supp. 65-516 is hereby amended to read as follows: 65-516. (a) No person shall knowingly maintain a child care facility or maintain a family day care home if, in the child care facility or

2012 L. 2012, ch. 99, § 4; July 1. (Approved April 12, 2012)

738

2012 Session Laws of Kansas

Ch. 99]

police in and around the state capitol building, the superintendent of the highway patrol shall advise with the legislative coordinating council.

~~(c) In addition to other duties, the superintendent of the highway patrol shall provide budgeting, purchasing and related management functions for the bureau of emergency medical services of the Kansas highway patrol as may be provided by law and shall perform other functions and duties pertaining to emergency medical services as may be specified by law.~~

Sec. 2. K.S.A. 74-2112, 74-2116, 74-2119, 74-2125 and 74-2133 and K.S.A. 2011 Supp. 74-2105 are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 12, 2012.

## CHAPTER 99

HOUSE BILL No. 2660  
(Amended by Chapter 166)

AN ACT concerning the department of health and environment; relating to the licensure of maternity centers and child care facilities; amending K.S.A. 2011 Supp. 65-503, 65-504, 65-506, 65-508, 65-516, 65-523 and 65-524 and repealing the existing sections; also repealing K.S.A. 65-502.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2011 Supp. 65-503 is hereby amended to read as follows: 65-503. As used in this act:

(a) "Child placement agency" means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care.

(b) "Child care resource and referral agency" means a business or service conducted, maintained or operated by a person engaged in providing resource and referral services, including information of specific services provided by child care facilities, to assist parents to find child care.

(c) "Child care facility" means:

(1) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children in the custody of the secretary of social and rehabilitation services who are placed with a prospective adoptive family pursuant to the provisions of an adoptive placement agreement or who are related to the person by blood, marriage or legal adoption;

(2) a children's home, orphanage, maternity home, day care facility

such licensee's care, such licensee shall be permanently prohibited from applying for a new license to provide child care or from seeking employment under another licensee.

(f) Any applicant or licensee aggrieved by a final order of the secretary of health and environment denying or revoking a license under this act may appeal the order in accordance with the Kansas judicial review act.

Sec. 3. K.S.A. 2011 Supp. 65-506 is hereby amended to read as follows: 65-506. The secretary of health and environment shall serve notice of the issuance, *limitation, modification*, suspension or revocation of a license to conduct a maternity center or child care facility to the secretary of social and rehabilitation services, juvenile justice authority, department of education, office of the state fire marshal, county, city-county or multi-county department of health, and to any licensed child placement agency or licensed child care resource and referral agency serving the area where the center or facility is located. A maternity center or child care facility that has had a license *limited, modified*, suspended, revoked or denied by the secretary of health and environment shall notify in writing the parents or guardians of the enrollees of the *limitation, modification*, suspension, revocation or denial. Neither the secretary of social and rehabilitation services nor any other person shall place or cause to be placed any ~~maternity patient woman~~ or child under 16 years of age in any maternity center or child care facility not licensed by the secretary of health and environment.

Sec. 4. K.S.A. 2011 Supp. 65-508 is hereby amended to read as follows: 65-508. (a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, ~~comfort~~, safety and ~~social welfare of the residents~~ *any woman or child*.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) (1) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of ~~the residents who are to be~~ *any woman or child* served in such facilities by ensuring safe

and adequate physical surroundings, healthful food, adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation, supervision and care of the residents by capable, qualified persons of sufficient number, after hour care, an adequate program of activities and services, sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills, emergency plans, safety of outdoor playground surfaces, door locks, safety gates and transportation and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents. ~~The notice of hearing on initial rules and regulations proposed to be adopted to carry out the amendments to this subsection (c)(1) by this act shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.~~

(2) Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in *child day* care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices. ~~The notice of hearing on initial rules and regulations proposed to be adopted under this subsection (c)(2) shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.~~

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical

condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

Sec. 5. K.S.A. 2011 Supp. 65-516 is hereby amended to read as follows: 65-516.

(a) No person shall knowingly maintain a child care facility if, there resides, works or regularly volunteers any person who in this state or in other states or the federal government:

(1) (A) Has a felony conviction for a crime against persons; (B) has a felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-36a17, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; (C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or a conviction of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2011 Supp. 21-5301, and amendments thereto, to commit any such act or a conviction of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2011 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of other states or the federal government; or (D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2011 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;

(2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or similar statutes of other states or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2011 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;

(3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the department of social and rehabilitation services pursuant to K.S.A. 2011 Supp. 38-2226, and amendments thereto, and (A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the department of

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\*\*\* Current through the 2013 First Extraordinary Session \*\*\*  
\*\*\* Annotations current through October 4, 2013 \*\*\*

TITLE XVIII Public Health  
CHAPTER 214 Diseases  
General Provisions

[Go to the Kentucky Code Archive Directory](#)

**KRS § 214.036 (2013)**

**214.036.** Exceptions to testing or immunization requirement.

Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 shall be construed to require the testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his attending physician, such testing or immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 be construed to require the immunization of any child whose parents are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child on religious grounds. Provided, however, that in the event of an epidemic in a given area, the Cabinet for Health and Family Services may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

**HISTORY:** (Enact. Acts 1962, ch. 95, § 4; 1968, ch. 87, § 4; 1974, ch. 74, Art. VI, § 107(3); 1976, ch. 128, § 4; 1980, ch. 55, § 1, effective July 15, 1980; 1998, ch. 426, § 396, effective July 15, 1998; 2005, ch. 99, § 449, effective June 20, 2005.)

**NOTES:** Cross-References.

Certificate of immunization required to enroll student in school, KRS 158.035.

Kentucky Law Journal.

Hodge and Gostin, School Vaccination Requirements: Historical, Social, and Legal Perspectives, 90 Ky L.J. 831 (2001-02).

#### Opinions of Attorney General.

A chiropractor is not a physician within the meaning of the statute authorizing physicians under certain circumstances by written opinion to exempt children from immunization otherwise required nor was his certification "the best interests of their health" sufficient to meet the statutory requirement that "such immunization would be injurious to the child's health." OAG 74-758.

Unless a child is excepted from immunization or testing for tuberculosis under this section, a child who does not comply with immunization and testing requirements cannot enroll in any public or private school system, and the child's failure to attend school will subject the parents or the custodians to the penalties set forth in KRS 159.990. OAG 76-256.

#### LexisNexis 50 State Surveys, Legislation & Regulations

##### Childhood & Student Vaccinations

Cited:

Piatt v. Louisville & Jefferson County Board of Education, 556 F.2d 809, 1977 U.S. App. LEXIS 12994 (6th Cir. 1977).

#### NOTES TO DECISIONS

1. Constitutionality.

1. Constitutionality.

Since the primary effect of the state immunization program was to improve and protect the health and well-being of citizens, this statute was not unconstitutional as being in violation of the establishment clause of the First Amendment. Kleid v. Board of Education, 406 F. Supp. 902, 1976 U.S. Dist. LEXIS 16997 (W.D. Ky. 1976).

# **Kentucky 1977 Non-Recognition of Religious Exemption Case**

(Must determine if religious exemption was established in Kentucky at this time)

CHRISTINA PIATT, Plaintiff-Appellant, v. LOUISVILLE AND JEFFERSON  
COUNTY BOARD OF EDUCATION, Defendant-Appellee

No. 76-1559

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

556 F.2d 809; 1977 U.S. App. LEXIS 12994

April 6, 1977, Cause Argued

June 10, 1977, Decided

June 10, 1977, Filed

**PRIOR HISTORY:** [\*\*1] APPEAL from the United States District Court for the Western District of Kentucky.

**DISPOSITION:** Affirmed.

## **CASE SUMMARY**

**PROCEDURAL POSTURE:** Appellant student sought review of a decision of the United States District Court for the Western District of Kentucky in refusing to request the convening of a three-judge district court on the issue of whether Ky. Rev. Stat. Ann. §§ 158.035, 214.036 violated U.S. Const. amend. I, and in abstaining on the issue of whether the statutes violated equal protection under U.S. Const. amend. XIV in student's action against appellee school board.

**OVERVIEW:** A school age student refused to be vaccinated and was sent home from school by the principal. Her mother filed an action on her behalf against the school board, challenging the constitutionality of Ky. Rev. Stat. Ann. §§ 158.035, 214.036, which required a certificate of immunization in order to be enrolled in elementary or secondary school. The student averred that she refused to be vaccinated because of personal religious beliefs and was being denied an opportunity to attend school in violation of the First Amendment and the due process clause of the Fourteenth Amendment. She sought declaratory and injunctive relief. The lower court refused to request a convening of a three-judge district court, holding that a recent controlling decision was dispositive of the First Amendment issue. The lower court abstained on the equal protection issue and dismissed the action. The court affirmed the decision. The controlling case held that §§ 158.035, 214.036 did not



violate the First Amendment and were valid enactments. The lower court did not err in refusing to invoke jurisdiction because the student had not exhausted remedies available to her in the state courts.

**OUTCOME:** The court affirmed the decision of the lower court in refusing to request the convening of a three-judge district court because a recent controlling decision determined that the immunization statutes did not violate the First Amendment. The lower court's decision to abstain on the equal protection allegation and dismiss the action against the school board was not error. The student had not exhausted available state court remedies.

**CORE TERMS:** immunization, elementary school, certificate, licensed physician, convening, epidemic, attend school, construed to require, equal protection, pending appeal, certification, deprivation, restraining, vaccinated, abstaining, enrollment, injunction, religious, immunized, disease, enroll

### LexisNexis® Headnotes

Public Health & Welfare Law > Healthcare > Communicable Diseases

<sup>HN1</sup> See Ky. Rev. Stat. Ann. § 158.035.

Public Health & Welfare Law > Healthcare > Communicable Diseases

<sup>HN2</sup> See Ky. Rev. Stat. Ann. § 214.036.

Civil Procedure > U.S. Supreme Court Review > Three-Judge Courts & Direct Appeals > Three-Judge Courts

Public Health & Welfare Law > Healthcare > Communicable Diseases

<sup>HN3</sup> Ky. Rev. Stat. Ann. §§ 158.035, 214.036 do not violate U.S. Const. amend. I and are valid and constitutional enactments.

**COUNSEL:** Michael J. Curran, Jones & Celebrezze, Louisville, Kentucky, for Appellant.

E. Preston Young, Louisville, Kentucky, for Appellee.

**JUDGES:** Phillips, Chief Judge, Weick and Celebrezze, Circuit Judges. \*

\* Judge Celebrezze did not participate in the decision in this case.

**OPINION BY:** PHILLIPS

**OPINION**

[\*809] PHILLIPS, Chief Judge.

Christina Piatt, a school age girl, refused to be vaccinated as required by Kentucky statutes, which require generally that a child seeking to enroll in any school must furnish a certificate of immunization signed by a duly licensed physician. On September 19, 1975, she filed this action by her [\*810] mother as next friend, challenging the constitutionality of K.R.S. § 158.035<sup>1</sup> and K.R.S. § 214.036.<sup>2</sup> She averred that she refused to be vaccinated because of personal religious beliefs and was being denied an opportunity to attend school in violation of the first amendment and the equal protection clause of the fourteenth amendment. She prayed for declaratory and injunctive relief.

----- Footnotes -----

1 158.035. Certificate of immunization.

*HN1* Except as otherwise provided in KRS 214.036, no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting a certificate from a duly licensed medical or osteopathic physician stating that the child has been immunized against diphtheria, tetanus, poliomyelitis, and measles in accordance with the provisions of this section and KRS 214.010, 214.020, 214.032 to 214.036 and 214.990 and the regulations of the State Board of Health. The governing body of private and public schools shall enforce the provisions of this section.

[\*\*2] 2 214.036. Exception to immunization requirement.

*HN2* Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036 and 214.990 shall be construed to require the immunization of any child at a time when, in the written opinion of his attending physician, such immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036 and 214.990 be construed to require the immunization of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical immunization against disease, and who object in writing to the immunization of such child on that ground. Provided, however, that in the event of an epidemic in a given area, the department for human resources may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

----- End Footnotes -----

In Kleid v. Board of Education, 406 F. Supp. 902 (W.D. Ky. Jan. 26, 1976), a three judge district court held that *HN3* the statutes [\*\*3] involved in the present case do not violate the first amendment and are valid and constitutional enactments.

In the present suit the district judge refused to request the convening of a three judge district court, holding that Kleid is dispositive of the first amendment issue. He abstained on the equal protection issue and dismissed the action.

We affirm.

On appeal it is asserted that:

- (1) The district judge abused his discretion in not requesting the convening of a three judge court;
- (2) The district court erred in abstaining from invoking its jurisdiction; and
- (3) The Kentucky statutes violate plaintiff's first amendment rights and deny her the equal protection of the law in violation of the fourteenth amendment.

We hold that the district judge did not abuse his discretion in refusing to request the convening of a three judge court in view of the contemporaneous decision of Kleid by a three judge court in the same district on January 26, 1976.

On the abstention issue, we note that plaintiff has not exhausted remedies available to her in the courts of the Commonwealth. The complaint contains the following summary of State court litigation:

3. That on or about [\*\*4] November 12, 1974, the Plaintiff, Christina Piatt, was sent home from school by Sarah Harris, Principal of the Bowen Elementary School, and such action of the said Principal was based upon Section 158.035 of the Kentucky Revised Statutes, which prohibits enrollment in the elementary school without a certification of immunization from a duly licensed physician.

4. Plaintiff was not allowed to return until such time as Plaintiff acquired the necessary certificate of immunization, pursuant to KRS 185.035 [sic]. On November 13, 1974, Plaintiff, through her counsel, contacted the Defendant, Board of Education, and Plaintiff was allowed to continue in school until November 20, 1974, which would allow Plaintiff's counsel to determine Plaintiff's rights without the Plaintiff suffering a deprivation of her education.

[\*811] 5. Plaintiff, by and through her counsel filed a Complaint for declaration of rights and injunction in the Circuit Court of Jefferson County, Kentucky, on November 20, 1974. The injunction restraining the Board of Education from refusing the Plaintiff to attend school was granted on November 27, 1974. On January 15, 1975, the Jefferson Circuit Court entered Judgment [\*\*5] adverse to Plaintiff and ordered compliance with KRS 158.035. A restraining order pending appeal was filed on January 29, 1975, and an Order suspending the Judgment pending appeal was entered February 6, 1975. Notice of Appeal to the Kentucky Court of Appeals was filed February 6, 1975, and on April 4, 1975, the Plaintiff

filed her Statement of Appeal. The Kentucky Court of Appeals dismissed the Appeal without prejudice on June 24, 1975.

6. That on or about September 5, 1975, the Plaintiff, Christina Piatt and her mother, Patrice Threlkeld, were told by Sarah Harris, Principal of the Bowen Elementary School, that Christina Piatt could not return to school until such time as she would be immunized pursuant to Section 158.035 of the Kentucky Revised Statutes, which prohibits enrollment in the elementary school without a certification of immunization from a duly licensed physician.

7. Plaintiff asserts that she is presently and will be continually denied her right to attend school, and that such denial of attendance works as a deprivation of her rights under the First and Fourteenth Amendments of the Constitution of the United States of America, and Section 158.038 of the Kentucky [<sup>\*\*6</sup>] Revised Statutes.

The district court found as follows:

Plaintiff initiated an action on substantially, if not exactly, the same grounds in the Kentucky state courts in November, 1974. The Judgment in the Jefferson Circuit Court upheld the Statute as it applied to plaintiff. Plaintiff appealed but no decision was reached on the merits at the appellate level, since plaintiff, for reasons not revealed in the record, declined to file briefs before the Kentucky Court of Appeals (now Supreme Court).

We conclude that the district court did not err in abstaining and in refusing to invoke its jurisdiction under the facts of this case. Huffman v. Pursue, 420 U.S. 592, 43 L. Ed. 2d 482, 95 S. Ct. 1200 (1975); Louisville Area Inter-Faith Committee v. Nottingham Liquors, 542 F.2d 652 (6th Cir. 1976); Forest Hills Utility Co. v. City of Heath, 539 F.2d 592 (6th Cir. 1976).

Affirmed.

1980 1980, ch. 55, § 1, effective July 15, 1980;

## CHAPTER 56

89

(2) Papers relating to uncontested probate matters shall be filed in the office of the county clerk. In the event a probate matter is contested, the Supreme Court shall by rule provide for filing duplicate papers in circuit and county clerks' offices.

Approved March 20, 1980

## CHAPTER 55

(H.B. 293)

AN ACT relating to immunizations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 214.036 is amended to read as follows:

Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036 and 214.990 shall be construed to require the testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his attending physician, such as testing or immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036 and 214.990 be construed to require the immunization of any child whose parents [are members of a nationally recognized and established church or religious denomination, the teachings of which] are opposed to medical immunization against disease, and who object *by a written sworn statement* [in writing] to the immunization of such child on *religious grounds* [that ground]. Provided, however, That in the event of an epidemic in a given area, the state board of health may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

Approved March 20, 1980

## CHAPTER 56

(H.B. 303)

AN ACT relating to public road districts.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 184.010 is amended to read as follows:

Public road districts may be established in counties containing cities of the first, [or] second, *third or fourth* classes for the purpose of providing the general public and persons residing upon or owning property adjacent to such roads with all-weather roads, appropriate drainage of said roads and sidewalks on either

1998 1998, ch. 426, § 396, effective July 15, 1998; (Approved April 9, 1998)

1416

ACTS OF THE GENERAL ASSEMBLY

CHAPTER 426

(HB 132)

AN ACT relating to the reorganization of the Cabinet for Human Resources.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. KRS CHAPTER 194A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*As used in this chapter, unless the context requires otherwise:*

- (1) "Cabinet" means the Cabinet for Health Services; and
- (2) "Secretary" means the secretary for health services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

*The cabinet is the primary state agency for operating the public health, Medicaid, certificate of need and licensure, and mental health and mental retardation programs in the Commonwealth. The function of the cabinet is to improve the health of all Kentuckians, including the delivery of population, preventive, reparative, and containment health services in a safe and effective fashion, and to improve the functional capabilities and opportunities of Kentuckians with disabilities. The cabinet is to accomplish its function through direct and contract services for planning and through the state health plan and departmental plans for program operations, for program monitoring and standard setting, and for program evaluation and resource management.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *The secretary for health services and the secretary's designated representatives in the discharge of the duties of the secretary may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.*
- (2) *The secretary may delegate any duties of the office of secretary to employees of the cabinet as the secretary deems necessary and appropriate, unless otherwise prohibited by statutes.*
- (3) *The secretary may enter into any contracts and agreements with individuals, colleges, universities, associations, corporations, municipalities, and other units of government as may be deemed necessary to carry out the general intent and purposes of the cabinet.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

*The cabinet consists of the following major organizational units, which are hereby created:*

- (1) *Office of the Secretary;*
- (2) *Office of Program Support. The Office of Program Support shall provide professional support in personnel activities; planning; budgeting; contract management; policy analysis, including but not limited to the appraisal of needs; evaluation of programs; review of citizen complaints about services of the cabinet when complaints cannot be resolved through normal administrative remedies; and fiscal, facility, and information management functions of the cabinet. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;*
- (3) *Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;*

## CHAPTER 426

1599

tuberculosis tested, examined and treated according to administrative regulations of the Cabinet for *Health Services*{*Human-Resources*}.

- (3) All public or private primary or secondary schools, and preschool programs shall require a current immunization certificate for any child enrolled as a regular attendee, as provided by administrative regulation of the Cabinet for *Health Services*{*Human-Resources*}, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance.
- (4) For each child cared for in a day care center, certified family child care home, or any other licensed facility which cares for children, a current immunization certificate, as provided by administrative regulation of the Cabinet for *Health Services*{*Human-Resources*}, promulgated under KRS Chapter 13A, shall be on file in the center, home, or facility within thirty (30) days of entrance into the program or admission to the facility.
- (5) Any forms relating to exemption from immunization requirements shall be available at public or private primary or secondary schools, preschool programs, day care centers, certified family child care homes, or other licensed facilities which care for children.

Section 396. KRS 214.036 is amended to read as follows:

Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 shall be construed to require the testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his attending physician, such testing or immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 be construed to require the immunization of any child whose parents are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child on religious grounds. Provided, however, that in the event of an epidemic in a given area, the Cabinet for *Health Services*{*Human-Resources*} may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

Section 397. KRS 214.155 is amended to read as follows:

- (1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child, and cause to have administered to every such infant or child in its or his care tests for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), in accordance with rules or regulations prescribed by the secretary of the Cabinet for *Health Services*{*Human-Resources*}. Testing, recording, and reporting of the results of such tests shall be performed at such times and in such manner as may be prescribed by the secretary of the Cabinet for *Health Services*{*Human-Resources*} or his designee. The secretary of the Cabinet for *Health Services*{*Human-Resources*} shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for inborn errors of metabolism.
- (2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of such child on that ground.

Section 398. KRS 214.160 is amended to read as follows:

- (1) Every physician and every other person legally permitted to engage in attendance upon a pregnant woman in this state shall take or cause to be taken from the woman a specimen of blood for serological test for syphilis as soon as he is engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. If the woman is in labor at the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen at that time, the specimen shall be obtained within ten (10) days after delivery. The specimen of blood shall be submitted to the laboratory of the Cabinet for *Health Services*{*Human-Resources*} or a laboratory approved by the cabinet, for the purpose of having made a serological test for syphilis. The test shall be of a type approved by the Cabinet for *Health Services*{*Human-Resources*}.
- (2) The Cabinet for *Health Services*{*Human-Resources*} shall, as often as necessary, publish a list of the five (5) most frequently abused substances, including alcohol, by pregnant women in the Commonwealth. Any physician and any other person legally permitted to engage in attendance upon a pregnant woman in this state may perform a screening for alcohol or substance dependency or abuse, including a comprehensive history of such behavior. Any physician may administer a toxicology test to a pregnant woman under the physician's care within eight (8) hours after delivery to determine whether there is evidence that she has



2005 **2005, ch. 99, § 449, effective June 20, 2005.)**

684

# ACTS OF THE GENERAL ASSEMBLY

Section 13. Notwithstanding the provisions of KRS 12.028, the General Assembly confirms Executive Order 2004-724, dated July 9, 2004, Executive Order 2004-960, dated August 31, 2004, Executive Order 2004-1052, dated September 27, 2004, Executive Order 2004-1202, dated November 5, 2004, and Executive Order 2004-1360, dated December 21, 2004, to the extent that they are not otherwise confirmed by this Act.

Approved March 16, 2005.

## CHAPTER 99

(SB 47)

AN ACT relating to reorganization.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 11.065 is amended to read as follows:

- (1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health *and Family Services*~~[-the Cabinet for Families and Children]~~, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.
- (2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.
- (3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 11.182 is amended to read as follows:

- (1) The membership of the commission shall consist of *forty-seven (47)*~~forty-eight (48)]~~ members who have the resources to accomplish the goals set forth in Kentucky's Appalachian Development Plan created under KRS 11.180(1).
  - (a) Ex-officio members shall be: the Governor; secretary of the Governor's Executive Cabinet; secretary of the Cabinet for Economic Development; secretary of the Transportation Cabinet; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Tourism Development Cabinet;~~[-secretary of the Cabinet for Families and Children]~~ secretary of the Cabinet for Health *and Family Services*; secretary of the Cabinet for Workforce Development; secretary of the Education, Arts, and Humanities Cabinet; commissioner of the Department of Agriculture; president of the Council on Postsecondary Education; president of the Kentucky Community and Technical College System; commissioner of the Department of Education; commissioner of the Department for Local Government; executive director of the Kentucky Housing Corporation; Governor's alternate to the Appalachian Regional Commission; president of Morehead State University; executive director of the University of Kentucky Appalachian Center; director of the Center for Kentucky Rural Economic Development; state director of Rural Development of the United States Department of Agriculture; executive director of the East Kentucky Corporation; chair of the Kentucky Appalachian Advisory Council's steering committee; and two (2) vice chairs of the Kentucky Appalachian Advisory Council's Steering Committee.
  - (b) Members appointed by the Governor shall be:
    1. A county judge/executive, mayor, executive director of an area development district, president of a community college, member of the House of Representatives, member of the Senate, and



## CHAPTER 99

923

- (4) All public or private primary schools shall require a current immunization certificate for hepatitis B for any child enrolled as a regular attendee in the sixth grade, as provided by administrative regulation of the Cabinet for Health *and Family* Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance. This provision shall sunset following the 2008-2009 school year unless otherwise authorized by the General Assembly.
- (5) For each child cared for in a day-care center, certified family child-care home, or any other licensed facility which cares for children, a current immunization certificate, as provided by administrative regulation of the Cabinet for Health *and Family* Services, promulgated under KRS Chapter 13A, shall be on file in the center, home, or facility within thirty (30) days of entrance into the program or admission to the facility.
- (6) Any forms relating to exemption from immunization requirements shall be available at public or private primary or secondary schools, preschool programs, day-care centers, certified family child-care homes, or other licensed facilities which care for children.

Section 449. KRS 214.036 is amended to read as follows:

Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 shall be construed to require the testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his attending physician, such testing or immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 be construed to require the immunization of any child whose parents are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child on religious grounds. Provided, however, that in the event of an epidemic in a given area, the Cabinet for Health *and Family* Services may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

Section 450. KRS 214.155 is amended to read as follows:

- (1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child and cause to have administered to every such infant or child in its or his care tests for heritable disorders including, but not limited to, phenylketonuria (PKU), sickle cell disease, congenital hypothyroidism, and galactosemia in accordance with rules or regulations prescribed by the secretary of the Cabinet for Health *and Family* Services. Testing, recording, and reporting of the results of newborn screening tests shall be performed at the times and in the manner as may be prescribed by the secretary of the Cabinet for Health *and Family* Services or the secretary's designee. The secretary of the Cabinet for Health *and Family* Services shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for newborn screening tests.
- (2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of his or her child on that ground.
- (3) The cabinet shall make available the names and addresses of health care providers including, but not limited to, physicians, nurses, and nutritionists, who may provide postpartum home visits to any family whose infant or child has tested positive for a newborn screening test.
- (4) Contingent upon the receipt of federal grants or appropriations by the General Assembly of the Commonwealth of Kentucky, the tests for heritable disorders for newborns listed in subsection (1) of this section shall be expanded to include, but not be limited to, medium-chain acyl-CoA dehydrogenase deficiency (MCAD), very long-chain acyl-CoA deficiency (VLCAD), short-chain acyl-CoA dehydrogenase deficiency (SCAD), maple syrup urine disease, congenital adrenal hyperplasia, biotinidase disorder, and cystic fibrosis.
- (5) The secretary for health *and family* services or his or her designee shall apply for any federal grants available through the Public Health Service Act to expand or improve programs to provide screening, counseling, testing, or specialty services for newborns or children at risk for heritable disorders.
- (6) The secretary for health *and family* services or his or her designee shall apply for any federal grants available through the Public Health Service Act to evaluate the effectiveness of newborn screening, counseling, or health care services in reducing the morbidity and mortality caused by heritable disorders in newborns and children.

Section 451. KRS 214.160 is amended to read as follows:

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LOUISIANA STATUTES ANNOTATED

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\*\*\* Annotations are current through January 10, 2014 \*\*\*

LOUISIANA REVISED STATUTES

TITLE 17. EDUCATION

CHAPTER 1. GENERAL SCHOOL LAW

PART 3. PUBLIC SCHOOLS AND SCHOOL CHILDREN

SUBPART A. GENERAL PROVISIONS

[GO TO LOUISIANA STATUTES ARCHIVE DIRECTORY](#)

**La. R.S. 17:170.1 (2013)**

**§ 17:170.1.** Immunizations of persons registering for courses at postsecondary education institutions requirements; exceptions; electronic transmission of immunization compliance reports

A. (1) Except as provided in Subsection C of this Section, for the Fall 2006 semester, quarter, or comparable academic period, a person shall provide satisfactory evidence of current immunization against meningococcal disease as a condition of registration for courses at a public or nonpublic postsecondary education institution.

(2) Except as provided in Subsection C of this Section, effective for the Spring 2007 semester, quarter, or comparable academic period and thereafter, a person entering a public or nonpublic postsecondary education institution for the first time shall provide satisfactory evidence of current immunization against meningococcal disease as a condition of his initial registration for courses at such institution.

(3) Except as provided in Subsection C of this Section, effective for the Spring 2007 semester, quarter, or comparable academic period and thereafter, a person returning to a public or nonpublic postsecondary education institution who was not registered for courses at such institution during the Fall 2006 semester, quarter, or comparable academic period and therefore was not subject to the requirement of Paragraph (1) of this Subsection shall provide satisfactory

evidence of current immunization against meningococcal disease as a condition of his initial registration for courses upon returning to such institution.

B. Every public and nonpublic postsecondary education institution shall provide detailed information on the risks associated with meningococcal disease and the availability, effectiveness, and known contraindications of any required or recommended vaccine against meningococcal disease to each person who has been admitted to such institution or to the person's parent, tutor, or legal guardian if the person is a minor.

C. The provisions of Subsection A of this Section shall not apply to the following persons:

(1) Any person who is eighteen years of age or older and who signs a waiver provided by the postsecondary education institution stating that the person has received and reviewed the information provided pursuant to Subsection B of this Section and has chosen not to be vaccinated against meningococcal disease for religious or other personal reasons.

(2) Any person who is a minor and whose parent, tutor, or legal guardian signs a waiver stating that the person has received and reviewed the information provided pursuant to Subsection B of this Section and has chosen for the student not to be vaccinated against meningococcal disease for religious or other personal reasons.

(3) Any person who has submitted a written statement from a physician stating that the procedure is contraindicated for medical reasons or, if a minor, any person whose parent, tutor, or legal guardian has submitted such a statement.

(4) Any person whose course registration is limited to correspondence courses, on-line courses, or any other courses that do not require meeting physically on campus at the postsecondary education institution for any reason or at any time. If such person subsequently registers for courses that meet physically on campus, such person shall be required to provide satisfactory evidence of current immunization against meningococcal disease as a condition of registration for such courses at such institution pursuant to Subsection A of this Section.

(5) Any person who is unable to comply with the provisions of Subsection A of this Section due to a shortage in the supply of available vaccinations against meningococcal disease.

D. Nothing in this Section shall be construed to require any public or nonpublic postsecondary education institution to provide or pay for vaccinations against meningococcal disease.

E. No person shall have a cause of action for damages for injury, loss, or death against the state or any agency, official, or employee thereof or against any postsecondary education institution, its governing authority, or any official or employee thereof for failure to provide the information required by Subsection B of this Section or for any act or omission in complying with the provisions of this Section.

F. (1) The provisions of this Section shall be implemented according to rules promulgated by the secretary of the Department of Health and Hospitals including an implementation schedule which shall be based on ensuring a sufficient availability of the required vaccine.

(2) The secretary shall establish a priority of cohorts of students who shall be required to be vaccinated in order to minimize the possibility of an outbreak of meningococcal disease. Such priority shall be established in consultation with the Board of Regents.

(3) The first priority cohorts shall be first-time freshmen and students living in on-campus residential facilities. Such students shall be required to present satisfactory evidence of current vaccination beginning with registration for the Fall 2006 semester, quarter, or comparable academic period as provided in this Section unless the secretary determines that an insufficient supply of vaccine is available. The time by which immunization shall be required for these students in the event of such an insufficient supply and for other cohorts of students to present such evidence to register for classes shall be provided in such schedule.

(4) The secretary of the Department of Health and Hospitals shall provide such rules, including the implementation schedule, to the Board of Regents by not later than August 1, 2006. The Board of Regents shall notify each postsecondary management board and, through such management boards, the chief executive officer of each postsecondary education institution of the requirements of this Section and the rules and schedule for their implementation as provided by this Section.

G. (1) Chief administrators of all postsecondary education institutions whether public or nonpublic shall:

(a) Be responsible for checking students' records to see that the provisions of this Section are enforced.

(b) Electronically transmit immunization compliance reports to the Department of Health and Hospitals, office of public health, when the institution operates an existing student-specific electronic data system, that, as of June 1, 2008, collects detailed information regarding vaccines and immunization dates electronically.

(2) The provisions of this Section which relate to the electronic transmission of data shall be implemented according to rules and regulations promulgated by the Department of Health and Hospitals in accordance with the Administrative Procedure Act.

**NOTES:**

LexisNexis 50 State Surveys, Legislation & Regulations

Childhood & Student Vaccinations

**HISTORY:** Acts 2006, No. 251, § 1, eff. June 8, 2006; Acts 2006, No. 711, § 1, eff. June 29, 2006; Acts 2008, No. 573, § 1, eff. Aug. 15, 2008.

**NOTES:**

LexisNexis (R) Notes:

Amendment Notes

2008 Amendments

Acts 2008, No. 573, § 1, effective August 15, 2008, added "electronic transmission of immunization compliance reports" to the section heading; and added (G).

Quoted Statutory Material

Acts 2006, No. 711, § 2, provides that "The course registration of any person who registered for courses at a public or nonpublic postsecondary education institution for the Fall 2006 semester, quarter, or comparable academic period prior to the effective date of this Act shall not be considered complete or finalized until such person has complied with the provisions of this Act in accordance with the rules and schedule promulgated pursuant to R.S. 17:170.1(F)."

Acts 2006, No. 711, § 3, provides that "It is the intent of this Act that R.S. 17:170.1(F) as enacted by this Act shall be incorporated with R.S. 17:170.1 as enacted by the Act which originated as House Bill No. 154 of the 2006 Regular Session of the Legislature. The Louisiana State Law Institute shall be responsible for carrying out this legislative intent."

LOUISIANA ADMINISTRATIVE CODE

\*\*\* Last amended April 2013, compiled April 2013 \*\*\*

TITLE 51 PUBLIC HEALTH--SANITARY CODE  
 PART II THE CONTROL OF DISEASES  
 CHAPTER 7 PUBLIC HEALTH IMMUNIZATION REQUIREMENTS

LAC 51:II.701 (2013)

§ 701. Immunization Schedule [formerly paragraph 2:025]

A. Appropriate immunizations for age for regulatory purposes shall be determined using the current immunization schedule from the Advisory Committee for Immunization Practice (ACIP) of the United States Public Health Service. Compliance will be based on the individual having received an appropriate number of immunizations for his/her age of the following types:

1. vaccines which contain tetanus and diphtheria toxoids, including DTP, DtaP, DT, Tdap, or Td or combinations which include these components;
2. polio vaccine, including OPV, eIPV, IPV, or combinations which include these components;
3. vaccines which contain measles antigen, including MMR and combinations which include these components;
4. vaccines which contain hepatitis antigen, including HepB, HepA, and combinations which include these components;
5. vaccines which contain varicella antigen, including varicella and combinations which include these components.

B. A one-month period will be allowed from the time the immunization is due until it is considered overdue. Medical, religious, and philosophic exemptions will be allowed for compliance with regulations concerning day care attendees and school enterers. Only medical and religious exemptions will be allowed for compliance with regulations concerning public assistance recipients. A copy of the current Office of Public Health immunization schedule can be obtained by writing to the Immunization Program, Office of Public Health, 1450 L and A Road, Metairie, LA 70001 or by telephone (504) 838-5300 or toll free (800) 251-2229.

C. [formerly paragraph 2:025-1] Any child 18 years or under, admitted to any day care center or residential facility shall have verification that the child has had all appropriate immunizations for age of the child according to the Office of Public Health schedule unless presenting a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from parents. The operator of any day care center shall report to the state health officer through the health unit of the parish or municipality where such day care

center is located any case or suspected case of reportable disease. Health records, including immunization records, shall be made available during normal operating hours for inspection when requested by the state health officer. When an outbreak of a communicable disease occurs in a day care center or residential facility, the operator of said day care center or residential facility shall comply with outbreak control procedures as directed by the state health officer.

D. [formerly paragraph 2:025-2] On or before October 1 of each year, the operator of each day care center, nursery school, or residential facility enrolling or housing any child 18 years or under, including and not limited to these listed facilities shall submit a preliminary immunization status report of all children enrolled or housed as of that date. This compliance report shall be submitted utilizing the Louisiana Immunization Network for Kids Statewide (LINKS) once the software module is completed for reporting and shall include identifying information for each child, and for each dose of vaccine received by the child since birth, Any child exempt from the immunization requirement shall also be identified, and the reason for exemption given on the report. After review of the report(s) by the state health officer or his or her designee, the day care center, nursery school, or residential facility operator will notify, on or before December 31 of each year, the parent or guardian of all enrolled or housed children, who are not compliant, with the immunization requirement of § 701.A and C of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5. Also see R.S. 17:170, R.S. 22:215.14, R.S. 40:31.15 and R.S. 44:17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002), amended LR 38:1252 (May 2012).

## LOUISIANA STATUTES ANNOTATED

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## LOUISIANA REVISED STATUTES

## TITLE 17. EDUCATION

## CHAPTER 1. GENERAL SCHOOL LAW

## PART 3. PUBLIC SCHOOLS AND SCHOOL CHILDREN

## SUBPART A. GENERAL PROVISIONS

[GO TO LOUISIANA STATUTES ARCHIVE DIRECTORY](#)**La. R.S. 17:170.4 (2013)**

**§ 17:170.4.** Immunizations of certain persons against meningococcal disease; exceptions

A. (1) (a) Except as provided in Subsection B of this Section, beginning with the 2009-2010 school year and continuing thereafter, a student shall provide satisfactory evidence of current immunization against meningococcal disease as a condition of entry into the sixth grade at any city, parish, or other local public school or nonpublic school.

(b) Except as provided in Subsection B of this Section, beginning with the 2009-2010 school year and continuing thereafter, a student who is eleven years old and is entering a grade other than the sixth grade shall provide satisfactory evidence of current immunization against meningococcal disease as a condition of entry into such grade at any city, parish, or other local public school or nonpublic school.

(c) Except as provided in Subsection B of this Section, beginning with the 2009-2010 school year and continuing thereafter, a student who is eleven years old and is participating in an approved home study program pursuant to R.S. 17:236.1 shall provide satisfactory evidence of current immunization against meningococcal disease to the State Board of Elementary and Secondary Education as provided by rule adopted by the board in accordance with the Administrative Procedure Act.



(2) The chief administrator of any city, parish, or other local public school or nonpublic school that educates students who are subject to the requirements of this Section shall be responsible for checking students' records to ensure that the provisions of this Section are enforced.

B. The provisions of Subsection A of this Section shall not apply to the following persons:

(1) Any person whose parent, tutor, or legal guardian signs a waiver stating that the person shall not be immunized against meningococcal disease for religious or other personal reasons.

(2) Any person whose parent, tutor, or legal guardian has submitted a written statement from a physician stating that the immunization is contraindicated for medical reasons.

(3) Any person who is unable to comply with the provisions of Subsection A of this Section due to a shortage in the supply of available vaccinations against meningococcal disease.

C. (1) The provisions of this Section shall be implemented according to rules and regulations promulgated by the secretary of the Department of Health and Hospitals, which shall include an implementation schedule based on ensuring sufficient availability of the required vaccine.

(2) The secretary of the Department of Health and Hospitals shall provide such rules, including the implementation schedule, to the state Department of Education by not later than August 1, 2009. The state Department of Education shall notify each city, parish, and other local school board, the governing authority of each nonpublic school system or school in the case of a school not a part of a school system, and the parent or legal guardian of any student participating in an approved home study program as specified in Subparagraph (A)(1)(c) of this Section of the requirements of this Section and the rules and schedule for their implementation as provided by this Section.

D. Nothing in this Section shall be construed to require any city, parish, or other local public school board, any nonpublic school system or nonpublic school, the state Department of Education, or the Department of Health and Hospitals to provide or pay for immunizations against meningococcal disease.

#### **NOTES:**

LexisNexis 50 State Surveys, Legislation & Regulations

Childhood & Student Vaccinations

**HISTORY:** Acts 2008, No. 342, § 1, eff. June 21, 2008; Acts 2010, No. 861, § 8, eff. Aug. 15, 2010.

2006 : Acts 2006, No. 251, § 1, eff. June 8, 2006;

Act 251

Approved by the Governor, June 8, 2006.

Published in the Official Journal of the State: June 27, 2006.

A true copy:

Al Ater

Secretary of State

— — — — —

## ACT No. 251

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### HOUSE BILL NO. 154

BY REPRESENTATIVES STRAIN, ALEXANDER, ARNOLD, BADON, BALDONE, BARROW, BURRELL, CRANE, CROWE, DANIEL, DOERGE, DOVE, DURAND, FANNIN, FAUCHEUX, FRITH, GALLOT, GLOVER, GREENE, HARRIS, HEATON, HONEY, KATZ, KENNEY, McDONALD, MONTGOMERY, ODINET, PINAC, PITRE, T. POWELL, QUEZAIRE, RICHMOND, RITCHIE, ROMERO, GARY SMITH, JANE SMITH, TRAHAN, TUCKER, WADDELL, AND WALKER AND SENATORS BROOME, HINES, AND NEVERS

### AN ACT

To enact R.S. 17:170.1, relative to immunizations; to require certain students of postsecondary education institutions to provide documentation of certain immunizations; to require such institutions to provide information relative to certain immunizations to certain persons; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:170.1 is hereby enacted to read as follows:

§170.1. Immunizations of persons registering for courses at postsecondary education institutions requirements; exceptions

A.(1) Except as provided in Subsection C of this Section, for the Fall 2006 semester, quarter, or comparable academic period, a person shall provide satisfactory evidence of current immunization against meningococcal disease as a condition of registration for courses at a public or nonpublic postsecondary education institution.

(2) Except as provided in Subsection C of this Section, effective for the Spring 2007 semester, quarter, or comparable academic period and thereafter, a person entering a public or nonpublic postsecondary education institution for the first time shall provide satisfactory evidence of current immunization against meningococcal disease as a condition of his initial registration for courses at such institution.

## Act 251

(3) Except as provided in Subsection C of this Section, effective for the Spring 2007 semester, quarter, or comparable academic period and thereafter, a person returning to a public or nonpublic postsecondary education institution who was not registered for courses at such institution during the Fall 2006 semester, quarter, or comparable academic period and therefore was not subject to the requirement of Paragraph (1) of this Subsection shall provide satisfactory evidence of current immunization against meningococcal disease as a condition of his initial registration for courses upon returning to such institution.

B. Every public and nonpublic postsecondary education institution shall provide detailed information on the risks associated with meningococcal disease and the availability, effectiveness, and known contraindications of any required or recommended vaccine against meningococcal disease to each person who has been admitted to such institution or to the person's parent, tutor, or legal guardian if the person is a minor.

C. The provisions of Subsection A of this Section shall not apply to the following persons:

(1) Any person who is eighteen years of age or older and who signs a waiver provided by the postsecondary education institution stating that the person has received and reviewed the information provided pursuant to Subsection B of this Section and has chosen not to be vaccinated against meningococcal disease for religious or other personal reasons.

(2) Any person who is a minor and whose parent, tutor, or legal guardian signs a waiver stating that the person has received and reviewed the information provided pursuant to Subsection B of this Section and has chosen for the student not to be vaccinated against meningococcal disease for religious or other personal reasons.

(3) Any person who has submitted a written statement from a physician stating that the procedure is contraindicated for medical reasons or, if a minor, any person whose parent, tutor, or legal guardian has submitted such a statement.

(4) Any person whose course registration is limited to correspondence courses, on-line courses, or any other courses that do not require meeting physically on campus at the postsecondary education institution for any reason or at any time. If such person subsequently registers for courses that meet physically on campus, such person shall be required to provide satisfactory evidence of current immunization against meningococcal disease as a condition of registration for such courses at such institution pursuant to Subsection A of this Section.

## Act 252

(5) Any person who is unable to comply with the provisions of Subsection A of this Section due to a shortage in the supply of available vaccinations against meningococcal disease.

D. Nothing in this Section shall be construed to require any public or nonpublic postsecondary education institution to provide or pay for vaccinations against meningococcal disease.

E. No person shall have a cause of action for damages for injury, loss, or death against the state or any agency, official, or employee thereof or against any postsecondary education institution, its governing authority, or any official or employee thereof for failure to provide the information required by Subsection B of this Section or for any act or omission in complying with the provisions of this Section.

Section 2. The course registration of any person who registered for courses at a public or nonpublic postsecondary education institution for the Fall 2006 semester, quarter, or comparable academic period prior to the effective date of this Act shall not be considered complete or finalized until such person has complied with the provisions of this Act.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 8, 2006.

Published in the Official Journal of the State: June 27, 2006.

A true copy:

Al Ater

Secretary of State

— — — — —  
**ACT No. 252**

— — —  
**HOUSE BILL NO. 162**  
**BY REPRESENTATIVE HILL**  
**AN ACT**

To amend and reenact R.S. 33:4574.1.1(A)(7) and (P), relative to Beauregard Parish and the Beauregard Parish Covered Arena Authority; to increase the maximum rate of hotel occupancy tax authorized to be levied by the Beauregard Tourist Commission; relative to reporting requirements of the Beauregard Parish Covered Arena Authority; and to provide for related matters.

2006 Acts 2006, No. 711, § 1, eff. June 29, 2006;

Act 710

(5)(a) Four persons who shall be ~~either active members~~ any of the following: (i) An active member of the fund who became ~~members a member~~ prior to July 12, 1977, ~~or former members who are,~~

(ii) A former member who is receiving a benefit from the fund and who became ~~members a member~~ prior to July 12, 1977.

(iii) The surviving spouse of an active member of the fund who became a member prior to July 12, 1977.

(iv) The surviving spouse of a former member who was receiving a benefit from the fund immediately prior to death and who became a member prior to July 12, 1977.

\* \* \*

Section 2. R.S. 11:3731(D) is hereby repealed in its entirety.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 29, 2006.

Published in the Official Journal of the State: July 17, 2006.

A true copy:

Al Ater

Secretary of State

— — — — —

## ACT No. 711

— — —

HOUSE BILL NO. 768

BY REPRESENTATIVES STRAIN, PINAC, BADON, BARROW,  
FANNIN, GREENE, HONEY, KENNEY, AND T. POWELL

AN ACT

To amend and reenact Section 2 of the Act which originated as House Bill No. 154 of the 2006 Regular Session of the Legislature and to enact R.S. 17:170.1(F), relative to immunizations; to provide relative to the implementation of the provisions of R.S. 17:170.1 relative to providing documentation of certain immunizations as enacted by the Act which originated as House Bill No. 154 of the 2006 Regular Session of the Legislature; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:170.1(F) is hereby enacted to read as follows:

\* \* \*

## Act 711

E.(1) The provisions of this Section shall be implemented according to rules promulgated by the secretary of the Department of Health and Hospitals including an implementation schedule which shall be based on ensuring a sufficient availability of the required vaccine.

(2) The secretary shall establish a priority of cohorts of students who shall be required to be vaccinated in order to minimize the possibility of an outbreak of meningococcal disease. Such priority shall be established in consultation with the Board of Regents.

(3) The first priority cohorts shall be first-time freshmen and students living in on-campus residential facilities. Such students shall be required to present satisfactory evidence of current vaccination beginning with registration for the Fall 2006 semester, quarter, or comparable academic period as provided in this Section unless the secretary determines that an insufficient supply of vaccine is available. The time by which immunization shall be required for these students in the event of such an insufficient supply and for other cohorts of students to present such evidence to register for classes shall be provided in such schedule.

(4) The secretary of the Department of Health and Hospitals shall provide such rules, including the implementation schedule, to the Board of Regents by not later than August 1, 2006. The Board of Regents shall notify each postsecondary management board and, through such management boards, the chief executive officer of each postsecondary education institution of the requirements of this Section and the rules and schedule for their implementation as provided by this Section.

Section 2. Section 2 of the Act which originated as House Bill No. 154 of the 2006 Regular Session of the Legislature is hereby amended and reenacted to read as follows:

Section 2. The course registration of any person who registered for courses at a public or nonpublic postsecondary education institution for the Fall 2006 semester, quarter, or comparable academic period prior to the effective date of this Act shall not be considered complete or finalized until such person has complied with the provisions of this Act in accordance with the rules and schedule promulgated pursuant to R.S. 17:170.1(F).

Section 3. It is the intent of this Act that R.S. 17:170.1(F) as enacted by this Act shall be incorporated with R.S. 17:170.1 as enacted by the Act which originated as House Bill No. 154 of the 2006 Regular Session of the Legislature. The Louisiana State Law Institute shall be responsible for carrying out this legislative intent.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time

2008 Acts 2008, No. 573, § 1, eff. Aug. 15, 2008.

Act 573

degree murder (R.S. 14:30), second degree murder (R.S. 14:30.1), attempted murder (R.S. 14:27 and 29), aggravated rape (R.S. 14:42), attempted aggravated rape (R.S. 14:27 and 42), forcible rape (R.S. 14:42.1), aggravated kidnapping (R.S. 14:44), aggravated arson (R.S. 14:51), armed robbery (R.S. 14:64), attempted armed robbery (R.S. 14:27 and 64), or producing, manufacturing, distributing, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance classified in Schedule I or II of R.S. 40:964 or any inmate sentenced as a habitual offender under R.S. 15:529.1 when that inmate is confined to an acute care hospital or nursing home with a condition that totally prevents mobility, including but not limited to prolonged coma or mechanical ventilation.

C. Any inmate authorized for temporary release pursuant to the provisions of this Section who is released, discharged, or who absconds from an acute care hospital or nursing home shall have such temporary release immediately rescinded.

Approved by the Governor, June 30, 2008.

Published in the Official Journal of the State: July 23, 2008.

A true copy:

Jay Dardenne

Secretary of State

### ACT No. 573

HOUSE BILL NO. 187

BY REPRESENTATIVE KATZ

AN ACT

To enact R.S. 17:170.1(G), relative to immunizations of persons registering for courses at postsecondary education institutions; to require chief administrators of all postsecondary education institutions to check student immunization records for compliance with applicable law; to provide for the electronic transmission of immunization compliance reports; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:170.1(G) is hereby enacted to read as follows:

§170.1. Immunizations of persons registering for courses at postsecondary education institutions requirements; exceptions; electronic transmission of immunization compliance reports

\* \* \*

G.(1) Chief administrators of all postsecondary education institutions whether public or nonpublic shall:



Act 573

(a) Be responsible for checking students' records to see that the provisions of this Section are enforced.

(b) Electronically transmit immunization compliance reports to the Department of Health and Hospitals, office of public health, when the institution operates an existing student-specific electronic data system, that, as of June 1, 2008, collects detailed information regarding vaccines and immunization dates electronically.

(2) The provisions of this Section which relate to the electronic transmission of data shall be implemented according to rules and regulations promulgated by the Department of Health and Hospitals in accordance with the Administrative Procedure Act.

Approved by the Governor, June 30, 2008.

Published in the Official Journal of the State: July 23, 2008.

A true copy:

Jay Dardenne

Secretary of State

— — — — —

## ACT No. 574

— — —

### HOUSE BILL NO. 190 BY REPRESENTATIVE MILLS AN ACT

To enact R.S. 40:6(G), relative to the state Sanitary Code; to authorize the Department of Health and Hospitals to make an order of the secretary and state health officer executory in a state district court; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:6(G) is hereby enacted to read as follows:

§6. Penalties for violation of state Sanitary Code

\* \* \*

G.(1) In all cases wherein the secretary and state health officer have issued an order assessing a civil penalty or requiring specific compliance actions to be undertaken, which order has become final as a result of all appeals being exhausted or delays having lapsed, if the penalty assessed has not been paid or the actions undertaken, attorneys for the department may file an ex parte petition in the district court for the parish in which the violation occurred, in accordance with Code of Civil Procedure Article 2782, attaching a certified copy of the order to the petition, seeking to make the order of the secretary and state health officer a judgment of the district court and making the judgment executory.

Maine  
LexisNexis Academic

Maine Revised Statutes Annotated by LexisNexis(R)

\*\*\* Current with Emergency Legislation through Chapter 427 of the 2013 First Regular Session and Chapter 434 of the First Special Session of the 126th Legislature \*\*\*

\*\*\* Annotations current through November 15, 2013 \*\*\*

TITLE 20-A. EDUCATION  
PART 3. ELEMENTARY AND SECONDARY EDUCATION  
CHAPTER 223. HEALTH, NUTRITION AND SAFETY  
SUBCHAPTER 2. IMMUNIZATION

[GO TO MAINE REVISED STATUTES ARCHIVE DIRECTORY](#)

**20-A M.R.S. § 6355 (2013)**

**§ 6355. Enrollment in school**

A superintendent may not permit any child to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, except as follows.

1. WRITTEN ASSURANCE. The parent provides a written assurance the child will be immunized within 90 days by private effort or provides, where applicable, a written consent to the child's immunization by a health officer, physician, nurse or other authorized person in public or private employ.

2. MEDICAL EXEMPTION. The parent or the child provides a physician's written statement that immunization against one or more of the diseases may be medically inadvisable.

3. PHILOSOPHICAL OR RELIGIOUS EXEMPTION. The parent states in writing a sincere religious belief that is contrary to the immunization requirement of this subchapter or an opposition to the immunization for philosophical reasons.

**SECTION HISTORY**

1983, c. 661, §8 (NEW). 2001, c. 326, §2 (AMD).

1983 83-661 s8 (Effective July 25, 1984)

1988  
CHAP. 661

PUBLIC LAWS, SECOND REGULAR SESSION—1983

effective until 90 days after adjournment of the Legislature.

Effective July 25, 1984, unless otherwise indicated.

## CHAPTER 661

H.P. 1642 - L.D. 2172

### AN ACT to Correct Errors and Inconsistencies in the School Immunization Law and other Related Laws.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §1001, sub-§11, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 2. 20-A MRSA §1001, sub-§11-A is enacted to read:

11-A. Exposure to communicable disease. They shall adopt a policy for enforcement by the superintendent to safeguard the health of any student or employee who has contracted or been exposed to a communicable disease, in accordance with sections 6301, 6351-A and 6551, and Title 22, chapter 251.

Sec. 3. 20-A MRSA §6301, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Duty of teacher. A teacher who believes that a student is so filthy or diseased as to be offensive or dangerous to others, or ~~because they are the bearers~~ bearer of vermin or parasites, or have an ~~infectious or contagious~~ has a communicable disease of the skin, mouth or eyes, shall inform the superintendent.

Sec. 4. 20-A MRSA §6301, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Duty of superintendent. A superintendent informed by a teacher under subsection 1 shall:

A. Inform the student's parent:

(1) To cleanse the clothing and bodies of their children; and

(2) To furnish their children with the required home or medical treatment for the relief of their trouble so defined in subsection 1; and

B. Exclude the student from the public schools until the student is no longer offensive or dangerous; and

C. Exclude the student from public school as soon as safe and proper transportation home is available.

Sec. 5. 20-A MRSA §6301, sub-§5, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 6. 20-A MRSA §6301, sub-§5-A is enacted to read:

5-A. Notification. The superintendent shall cause notice of the communicable disease to be given to the Department of Human Services, in accordance with the requirements of Title 22, chapter 251, and rules issued under that chapter.

Sec. 7. 20-A MRSA §6351, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 8. 20-A MRSA §§6352 to 6358 are enacted to read:

#### §6352. Immunization

To assure a safe and healthful school environment, the Legislature intends that the provisions of this subchapter on immunization shall apply in the schools of the State.

#### §6353. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Certificate of immunization. "Certificate of immunization" means a written statement from a physician, nurse or health official who has administered an immunizing agent to a child, specifying the dosage administered and the date it was administered.

2. Child. "Child" means and includes every child entering school.

3. Disease. "Disease" means diphtheria, measles, mumps, pertussis, poliomyelitis, rubella and tetanus.

4. Immunizing agent. "Immunizing agent" means a vaccine, antitoxin or other substances used to increase an individual's immunity to a disease.

5. Parent. "Parent" means a child's parent, legal guardian or custodian. A person shall be regarded as a child's custodian if that person is an adult and has assumed legal charge and care of the child.

6. Public health official. "Public health official" means a local health officer, the Director of the Bureau of Health, Department of Human Services, or any designated employee or agent of the Department of Human Services.

7. School. "School" means any public or private elementary or secondary school in the State.

8. Superintendent. "Superintendent" means the superintendent of schools of a school administrative unit, or a person designated by the superintendent, and the chief administrative officer of a private school.

#### §6354. Immunization

1. Immunization required. Except as otherwise provided under this subchapter, every parent shall cause to be administered to his child an adequate dosage of an immunizing agent against each disease.

2. Immunizing agent to meet standards. Any such immunizing agent shall meet standards for such biological products, approved by the United States Public Health Service and the dosage requirement specified by the Department of Human Services.

#### §6355. Enrollment in school

No superintendent may permit any child to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, except as follows.

1. Written assurance. The parent provides a written assurance the child will be immunized within 90 days by private effort or provides, where applica-

ble, a written consent to the child's immunization by a health officer, physician, nurse or other authorized person in public or private employ.

2. Physician's statement. The parent or the child provides a physician's written statement that immunization against one or more of the diseases may be medically inadvisable.

3. Moral, philosophical or personal reasons. The parent states in writing a sincere religious belief which is contrary to the immunization requirement of this subchapter or an opposition to the immunization for moral, philosophical or other personal reasons.

#### §6356. Exclusion from school

1. Public health official action. When a public health official has reason to believe that the continued presence in a school of a child who has not been immunized against one or more diseases presents a clear danger to the health of others, the public health official shall notify the superintendent of the school. The superintendent shall cause the child to be excluded from school during the period of danger or until the child receives the necessary immunizing agent.

Whenever, as a result of this section, a child is absent from the public school for more than 10 days, the superintendent shall make arrangements to meet the educational needs of the child.

2. Superintendent's action. Notwithstanding the provisions of this subchapter on immunization against specified diseases, a superintendent shall exclude from the public schools any child because of filth or communicable disease, in accordance with section 6301, and the superintendent shall exclude from school any child or employee who has contracted or has been exposed to a communicable disease as directed by a local health officer, the Department of Human Services or the school physician.

#### §6357. Records; report

1. Record keeping. Each superintendent shall keep uniform records of the immunizations and immunization status of each child based on the certificate of immunization, other acceptable evidence and other available documents. The records shall be part of the child's permanent education records. These records shall be confidential, except that state and local health personnel shall have access to

them in connection with an emergency, as provided by the United States Family Educational Rights and Privacy Act of 1974, Public Law 93-380, United States Code, Title 20, Section 1232g(b) (1) (I) and regulations adopted under that Act.

2. Annual report of immunization status. By December 15th of each year, each superintendent shall submit to the Director of the Bureau of Health, Department of Human Services, and to the commissioner a summary report of immunization status of the children entering school, as prescribed by rule.

#### §6358. Rules; requirements; reports

1. Rules authorized. The commissioner and the Director of the Bureau of Health, Department of Human Services, shall jointly issue rules necessary for the effective implementation of this subchapter, including, but not limited to, rules establishing immunization requirements for each disease, school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized children from school.

2. Local requirements authorized. Immunization requirements more stringent than the provisions of this subchapter may be adopted by ordinance enacted by a municipality, by regulation of a school board or by policy of a private school's governing board.

Sec. 9. 22 MRSA §1032, as enacted by PL 1977, c. 304, §2, is amended to read:

#### §1032. Confidentiality

The names and related information which may identify individuals having or suspected of having a notifiable communicable disease shall be confidential and may be released only to other public health officials, agents or agencies, or to school officials where a child is enrolled, for a public health purpose. All other information submitted pursuant to this article may be made available to the public.

Effective July 23, 1984.

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## CHAPTER 662

H.P. 1484 - L.D. 1947

AN ACT to Change the Name of Coho Salmon to Pacific Salmon.

2001 2001, c. 326, §2 (AMD). (Effective September 21, 2001)

PUBLIC LAW, c. 325

FIRST REGULAR SESSION - 2001

- B. Felony murder;
- C. Manslaughter;
- D. Aggravated assault;
- D-1. Elevated aggravated assault;
- E. Gross sexual assault, including that formerly denominated as gross sexual misconduct;
- E-1. Rape;
- F. Sexual abuse of a minor;
- G. Unlawful sexual contact;
- G-1. Visual sexual aggression against a child;
- G-2. Sexual misconduct with a child under 14 years of age;
- H. Kidnapping;
- I. Criminal restraint;
- J. Burglary;
- K. Robbery;
- L. Arson;
- M. Aggravated criminal mischief; or
- N. Any lesser included offense of any crime identified in paragraphs A to M if the greater offense is initially charged. "Lesser included offense" has the same meaning as in Title 17-A, section 13-A.

**Sec. 5. 25 MRSA §1574, sub-§5 is enacted to read:**

**5. Applicable offenses effective October 1, 2001.** This section applies to a person convicted after October 1, 2001 of one or more of the following offenses or an attempt of one or more of the following offenses:

- A. Murder;
- B. A Class A, B or C crime;
- C. Sexual abuse of a minor;
- D. Unlawful sexual contact;
- E. Visual sexual aggression against a child;
- F. Sexual contact with a child under 14 years of age;
- G. Solicitation of a child by a computer to commit a prohibited act; or

H. Any lesser included offense of any crime identified in paragraphs A to G if the greater offense is initially charged. "Lesser included offense" has the same meaning as in Title 17-A, section 13-A.

See title page for effective date.

## CHAPTER 326

H.P. 1163 - L.D. 1563

### An Act to Amend School Immunizations Requirements

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 20-A MRSA §6353, sub-§3, as enacted by PL 1983, c. 661, §8, is amended to read:**

**3. Disease.** "Disease" means diphtheria, measles, mumps, pertussis, poliomyelitis, rubella and tetanus ~~those conditions that are preventable by immunizing agent, as specified in rules.~~

**Sec. 2. 20-A MRSA §6355, as enacted by PL 1983, c. 661, §8, is amended to read:**

#### **§6355. Enrollment in school**

No A superintendent may not permit any child to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, except as follows.

**1. Written assurance.** The parent provides a written assurance the child will be immunized within 90 days by private effort or provides, where applicable, a written consent to the child's immunization by a health officer, physician, nurse or other authorized person in public or private employ.

**2. Medical exemption.** The parent or the child provides a physician's written statement that immunization against one or more of the diseases may be medically inadvisable.

**3. Philosophical or religious exemption.** The parent states in writing a sincere religious belief ~~which~~ that is contrary to the immunization requirement of this subchapter or an opposition to the immunization for ~~moral, philosophical or other personal~~ reasons.

**Sec. 3. 20-A MRSA §6358, sub-§1, as enacted by PL 1983, c. 661, §8, is amended to read:**

**1. Rules authorized.** The commissioner and the Director of the Bureau of Health, Department of Human Services, shall jointly issue rules necessary for



See title page for effective date (For effective date purposes, September 21, 2001)

**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2001**

Maryland  
LexisNexis Academic

Annotated Code of Maryland  
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\*\*\* Statutes current through Chapter 1 of the 2014 General Assembly Regular Session \*\*\*

\*\*\* Annotations current through December 7, 2013 \*\*\*

EDUCATION  
DIVISION II. ELEMENTARY AND SECONDARY EDUCATION  
TITLE 7. PUBLIC SCHOOLS  
SUBTITLE 4. HEALTH AND SAFETY OF STUDENTS  
**Religious Exemption**

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. EDUCATION Code Ann. § 7-403 (2014)

§ 7-403. Immunizations

(a) Rules and regulations. --

(1) In cooperation with the State Board and the Medical and Chirurgical Faculty of Maryland, the Department of Health and Mental Hygiene shall adopt rules and regulations regarding blood tests for lead poisoning required of children entering schools.

(2) In cooperation with the State Board and the Statewide Advisory Commission on Immunizations, the Department of Health and Mental Hygiene shall adopt rules and regulations regarding immunizations required of children entering schools.

(3) These rules and regulations shall:

(i) Be adopted in compliance with the Administrative Procedure Act;

(ii) Provide that any child may have the immunization administered by his personal physician; and

(iii) 1. By September 2003, in areas designated as at risk for lead poisoning, as determined under § 18-106 of the Health - General Article, when a child

enters a public prekindergarten program, kindergarten program, or first grade, require the parent or legal guardian of the child to provide documentation from a health care provider, on a form developed by the Department of Health and Mental Hygiene, certifying that the child has undergone blood testing for lead poisoning administered in accordance with the guidelines of the Centers for Disease Control and Prevention in the screening of young children for lead poisoning: Guidance for State and Local Public Health Officials (November 1997) and any subsequent guidelines; and

2. By September 2003, require a program or school to report the name, last known address, and telephone number of each child for whom certified documentation of a lead test is not provided under item 1 of this item, as determined by regulation, to the local health department in the jurisdiction where the child resides.

(4) Any requirement for the administration of pertussis vaccine shall be consistent with § 18-332(b) of the Health - General Article.

(b) Exception. --

(1) Unless the Secretary of Health and Mental Hygiene declares an emergency or an epidemic of disease, a child whose parent or guardian objects to immunization on the ground that it conflicts with the parent's or guardian's bona fide religious beliefs and practices may not be required to present a physician's certification of immunization in order to be admitted to school.

(2) The Secretary of Health and Mental Hygiene shall adopt rules and regulations for religious exemptions under this subsection.

**HISTORY:** An. Code 1957, art. 77, § 84; 1978, ch. 22, § 2; 1983, ch. 188; 1984, chs. 578, 785; 1985, ch. 253; 1987, ch. 54; 1996, ch. 10, § 16; 2000, ch. 677; 2001, ch. 29, § 6; 2002, ch. 337; 2003, ch. 178, § 1; 2004, ch. 25.

**NOTES:** EDITOR'S NOTE. --Section 5, ch. 178, Acts 2003, provides that "§ 2 of this Act shall take effect on the taking effect of the termination provision specified in § 2 of Chapter 337 of the Acts of the General Assembly of 2002. If that termination provision takes effect, § 1 of this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision."

Section 2, ch. 337, Acts 2002, as amended by § 1, ch. 200, Acts 2005, by ch. 504, Acts 2007, and by ch. 672, Acts 2010, provides that "this Act shall take effect June 1, 2002." Pursuant to ch. 672, Acts 2010, the former abrogation has been deleted.

LexisNexis 50 State Surveys, Legislation & Regulations

Childhood & Student Vaccinations

DOMINANT PURPOSE OF SECTION TO PROVIDE FOR IMMUNIZATION PROGRAM. --The language of this section clearly indicates that the legislature's dominant purpose was to provide for an immunization program rather than to protect those having religious beliefs against immunization. Davis v. State, 294 Md. 370, 451 A.2d 107 (1982).

1957 An. Code 1957, art. 77, § 84;

1978 1978, ch. 22, § 2;

BLAIR LEE III, Acting Governor

39

Article 27 - Crimes and Punishments

417.

As used in this subtitle,

(2) "Person" means any individual, partnership, firm, association, corporation, or other legal entity[, but shall not be construed to include an employee of any individual, partnership, firm, association, corporation, or other legal entity operating a theatre which shows motion pictures if the employee is not an officer thereof or has no financial interest therein other than receiving salary and wages].

418.

[Every] ANY person who knowingly sends or causes to be sent, or brings or causes to be brought, into this State for sale or distribution, or in this State prepares, publishes, prints, exhibits, distributes, or offers to distribute, or has in his possession with intent to distribute or to exhibit or offer to distribute, any obscene matter is guilty of a misdemeanor.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is hereby declared to be an emergency measure and necessary for the immediate preservation of the public health and safety and having been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, the same shall take effect from the date of its passage.

Approved March 22, 1978.

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CHAPTER 22

(Senate Bill 222)

AN ACT concerning

Education Article

FOR the purpose of adding a new Article to the Annotated Code of Maryland to be designated and known as the "Education Article", to revise, restate, and recodify the laws of this State relating and pertaining to education, including those dealing with the organization, structure, operations, financing, duties, and authority of the various education agencies in this State, including the State Board of Education, the Department of Education, the County Boards of Education, the Board of School Commissioners of

1987 1987, ch. 54; (Effective July 1, 1987)

WILLIAM DONALD SCHAEFER, Governor

Ch. 54

CHAPTER 54

(House Bill 89)

AN ACT concerning

Immunization - Religious Exemption

FOR the purpose of making permanent a religious exemption for certain individuals in the State from certain immunization requirements; requiring certain reports by the Department of Health and Mental Hygiene; and generally relating to immunization requirements in the State.

BY repealing and reenacting, without amendments,

Article - Education  
Section 7-402(b)  
Annotated Code of Maryland  
(1985 Replacement Volume and 1986 Supplement)

BY repealing and reenacting, with amendments,

Article - Health - General  
Section 18-403  
Annotated Code of Maryland  
(1982 Volume and 1986 Supplement)

BY repealing and reenacting, with amendments,

Chapter 188 of the Acts of the General Assembly of 1983, as amended by Chapter 253 of the Acts of the General Assembly of 1985  
Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Education

7-402.

(b) (1) Unless the Secretary of Health and Mental Hygiene declares an emergency or an epidemic of disease, a child whose parent or guardian objects to immunization on the ground that it conflicts with the parent's or guardian's bona fide religious beliefs and practices may not be required to present a physician's certification of immunization in order to be admitted to school.

## Ch. 54

## LAWS OF MARYLAND

(2) The Secretary of Health and Mental Hygiene shall adopt rules and regulations for religious exemptions under this subsection.

## Article - Health - General

18-403.

(a) Unless the Secretary declares an emergency or disease epidemic, the Department may not require the immunization of an individual if:

(1) The individual objects to immunization because it conflicts with the individual's bona fide religious beliefs and practices; or

(2) The individual is a minor and the individual's parent or guardian objects to immunization because it conflicts with the parent or guardian's bona fide religious beliefs and practices.

(b) The Secretary shall adopt rules and regulations for religious exemptions under this section.

(c) The Department shall report to the General Assembly EVERY 2 YEARS by January 1, [1987] BEGINNING IN 1989, the number of exemptions granted and the incidence of diseases covered by the immunization requirement within the exempt population and the population as a whole.

Chapter 188 of the Acts of 1983, as amended by  
Chapter 253 of the Acts of 1985

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1983. [It shall remain in effect for a period of 2 years and, at the end of June 1987, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect and shall be removed from the Annotated Code of Maryland.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1987.

Approved April 14, 1987.

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1996 1996, ch. 10, § 16; (Approved April 9, 1996)

PARRIS N. GLENDENING, Governor

Ch. 10

or at private (negotiated) sale without advertisement or solicitation of competitive bids, for a price or prices which may be at, above, or below the par value of the refunding bonds, as determined by resolution of the Board of Finance [or] OF the Mayor and City Council of Baltimore. If the Board of Finance determines to sell the refunding bonds at public sale, the refunding bonds shall be sold to the highest responsible bidder or bidders therefor after due notice of such sale, but the Mayor and City Council of Baltimore, acting by and through the Board of Finance thereof, shall have the right to reject any or all bids therefor for any reason.

(6) Any refunding bonds authorized to be issued and sold under the provisions of this section shall bear interest at such rate or rates as may be determined by the Board of Finance [or] OF the Mayor and City Council of Baltimore, which rate or rates maybe fixed or variable or as determined by a method approved by the Board of Finance, and such interest shall be payable at such time or times as may be determined by the Board of Finance.

**DRAFTER'S NOTE:**

Error: Incorrect word usage in Article II, § (62)(i)(2)(ii)2, (5), and (6) of the Charter of Baltimore City.

SECTION 2. AND BE IT FURTHER ENACTED, That the Drafter's ~~Note~~ Notes contained in this Act ~~is~~ are not law and may not be considered to have been enacted as part of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved April 9, 1996.

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**CHAPTER 10**

(Senate Bill 11)

**AN ACT concerning**

**Annual Corrective Bill**

FOR the purpose of correcting certain errors and omissions in certain articles of the Annotated Code and in certain uncodified laws and public local laws; clarifying language; providing that with certain exceptions this Act is not intended to affect any law other than to correct technical errors; repealing certain obsolete provisions of law; renumbering certain sections of the Annotated Code; reorganizing certain sections of the Annotated Code; validating certain corrections made by the publisher of the Annotated Code; restoring certain inadvertently repealed provisions relating to unemployment insurance; clarifying certain provisions relating to reports by the Secretary of Personnel; providing for the effect and construction of

## Ch. 10

## 1996 LAWS OF MARYLAND

those articles having been repealed or transferred elsewhere in the Annotated Code or to the Session Laws by previous enactments:

Article 2A	Agriculture
Article 21	Procurement
Article 35	Evidence
Article 39	Fish and Fisheries
Article 39A	Forestry
Article 40A	Maryland Public Ethics Law
Article 41A	Department of Economic and Employment Development
Article 41B	Department of Housing and Community Development
Article 41C	Juvenile Services
Article 42	Habeas Corpus
Article 43	Health
Article 53	Landlord and Tenant
Article 54	State Archives and Artistic Property
Article 56	Licenses
Article 58	Livestock
Article 61	Manures and Fertilizers
Article 64A	Merit System
Article 66D	Maryland-National Capital Park and Planning Commission
Article 67	Washington Suburban Sanitary District
Article 70A	Old Age Assistance
Article 72	Oysters
Article 73B	Pensions
Article 81	Revenue and Taxes
Article 83	Sales and Notices
Article 89B	State Roads
Article 95B	Uniform Commercial Code
Article 96	United States
Article 99	Birds, Game and Inland Water Fish
Article 100	Work, Labor and Employment
Article 101	Workmen's Compensation

**SECTION 16. AND BE IT FURTHER ENACTED,** That the publishers of the Annotated Code of Maryland, subject to the approval of the Director of the Department of Legislative Reference, shall propose and implement a plan for the renumbering of the titles, subtitles, and sections of the Education Article of the Annotated Code of Maryland prior to the republication of the replacement volume containing that article. The proposal shall correct numerical and nonnumerical cross-references and other changes within the article and throughout the Annotated Code occasioned by the renumbering.

**SECTION 17. AND BE IT FURTHER ENACTED,** That the publishers of the Annotated Code of Maryland, subject to the approval of the Director of the Department of Legislative Reference, shall make any changes in the text of the Annotated Code necessary to effectuate any termination provision that was enacted by the General Assembly and has taken effect or will take effect prior to October 1, 1996. Any enactment

of the 1996 Session of the General Assembly that negates or extends the effect of a previously enacted termination provision shall prevail over the provisions of this section.

**SECTION 18. AND BE IT FURTHER ENACTED,** That the Drafter's Notes contained in this Act are not law and may not be considered to have been enacted as part of this Act.

**SECTION 19. AND BE IT FURTHER ENACTED,** That, except for Sections 3, 8, and 12 of this Act, the provisions of this Act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act.

**SECTION 20. AND BE IT FURTHER ENACTED,** That Section 11 of this Act, which revives provisions that were inadvertently repealed, shall be construed retroactively and shall be applied to computation dates on and after July 1, 1995 and shall apply to the rate of contribution for each employing unit on and after calendar years beginning in 1996.

**SECTION 21. AND BE IT FURTHER ENACTED,** That any reference in the Annotated Code rendered obsolete by an Act of the General Assembly of 1996 shall be corrected by the publisher of the Annotated Code, the Michie Company, in consultation with the Director of Legislative Reference, with no further action required by the General Assembly. The Michie Company shall adequately describe any such correction in an editor's note following the section affected.

**SECTION 22. AND BE IT FURTHER ENACTED,** That Section 10 of this Act shall take effect July 1, 1996.

**SECTION 23. AND BE IT FURTHER ENACTED,** That, except as provided in Section 22 of this Act, this Act is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved April 9, 1996.

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## CHAPTER 11

### (House Bill 11)

AN ACT concerning

#### Insurance Article - II

FOR the purpose of adding certain titles to the Insurance Article, to revise, restate, and recodify the laws of the State relating and pertaining to: regulation of insurance entities operating in a financially hazardous condition, liquidation, rehabilitation, reorganization, and conservation of impaired insurance entities, the Property and Casualty Insurance Guaranty Corporation, the Life and Health Insurance Guaranty

2000 2000, ch. 677; (Effective July 1, 2000)

Ch. 677

2000 LAWS OF MARYLAND

(7) ADEQUATE PUBLIC FACILITIES AND INFRASTRUCTURE ARE AVAILABLE OR PLANNED IN AREAS WHERE GROWTH IS TO OCCUR; AND

(8) funding mechanisms shall be addressed to achieve this policy.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any local comprehensive plan, master plan, sector plan, or implementing ordinance or policy, or to any State development policy, the development, implementation, enactment, or amendment of which begins before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2000.

Approved May 18, 2000.

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## CHAPTER 677

(House Bill 1221)

AN ACT concerning

### **Baltimore City— Education – Lead Poisoning Tests – Administering and Reporting**

FOR the purpose of requiring certain regulations to require parents or legal guardians of certain children to have been administered report the results of a certain test for lead poisoning at a certain time; requiring certain public schools in Baltimore City to report certain information to the Commissioner of the Baltimore City Health Department each school year a certain local health department; requiring certain persons to administer a certain test for lead poisoning under certain circumstances; providing for a waiver of certain tests for religious reasons; requiring a medical laboratory to report the results of a certain test for lead poisoning to a certain person under certain circumstances; authorizing the Commissioner of the Baltimore City Health Department to report certain information to a certain registry program; authorizing the Department of the Environment to report the results of a certain test for lead poisoning to a certain immunization registry; authorizing the Secretary of Health and Mental Hygiene to report certain information concerning a certain test for lead poisoning on a certain immunization registry; and generally relating to requiring certain children to have been administered a certain test for lead poisoning at a certain time in Baltimore City and reporting certain results and information concerning tests for lead poisoning under certain circumstances.

BY repealing and reenacting, with amendments,

Article – Education

Section 7-403

Annotated Code of Maryland  
(1999 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Environment  
Section 6-303 and 6-304  
Annotated Code of Maryland  
(1996 Replacement Volume and 1999 Supplement)

BY adding to repealing and reenacting, with amendments,

Article – Health – General  
Section ~~18-106~~ ~~18-106~~  
Annotated Code of Maryland  
(1996 Replacement Volume and 1999 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Education**

7-403.

(a) (1) In cooperation with the State Board and the Medical and Chirurgical Faculty of Maryland, the Department of Health and Mental Hygiene shall adopt rules and regulations regarding the immunizations AND BLOOD TEST SCREENINGS TESTS FOR LEAD POISONING required of children entering schools.

(2) These rules and regulations shall:

(i) Be adopted in compliance with the Administrative Procedure Act; [and]

(ii) Provide that any child may have the immunization administered by his personal physician; AND

~~(iii) 1. IN BALTIMORE CITY, REQUIRE A CHILD ENTERING A SCHOOL TO HAVE BEEN ADMINISTERED A VENOUS BLOOD TEST SCREENING FOR LEAD POISONING AT THE TIME OF THE CHILD'S FIRST RUBELLA, MEASLES, OR MUMPS IMMUNIZATION; AND~~

~~2. FOR EACH SCHOOL YEAR EACH PUBLIC SCHOOL SHALL REPORT THE RESULTS OF THE VENOUS BLOOD TEST SCREENING TO THE COMMISSIONER OF THE BALTIMORE CITY HEALTH DEPARTMENT~~

1. BY SEPTEMBER 2003, IN AREAS DESIGNATED AS AT RISK FOR LEAD POISONING, AS DETERMINED UNDER § 18-106 OF THE HEALTH – GENERAL ARTICLE, WHEN A CHILD ENTERS A PUBLIC PREKINDERGARTEN PROGRAM, KINDERGARTEN PROGRAM, OR FIRST GRADE, REQUIRE THE PARENT OR LEGAL GUARDIAN OF THE CHILD TO PROVIDE EVIDENCE OF THE RESULTS OF THE CHILD'S BLOOD TESTS FOR LEAD POISONING ADMINISTERED IN ACCORDANCE WITH THE

GUIDELINES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION IN THE SCREENING OF YOUNG CHILDREN FOR LEAD POISONING: GUIDANCE FOR STATE AND LOCAL PUBLIC HEALTH OFFICIALS (NOVEMBER 1997) AND ANY SUBSEQUENT GUIDELINES; AND

2. BY SEPTEMBER 2003, REQUIRE A PROGRAM OR SCHOOL TO REPORT THE INFORMATION RECEIVED UNDER SUB-SUBPARAGRAPH 1 OF THIS SUBPARAGRAPH TO THE LOCAL HEALTH DEPARTMENT IN THE JURISDICTION WHERE THE CHILD RESIDES.

(3) Any requirement for the administration of pertussis vaccine shall be consistent with § 18-332(b) of the Health - General Article.

(b) (1) Unless the Secretary of Health and Mental Hygiene declares an emergency or an epidemic of disease, a child whose parent or guardian objects to immunization on the ground that it conflicts with the parent's or guardian's bona fide religious beliefs and practices may not be required to present a physician's certification of immunization in order to be admitted to school.

(2) The Secretary of Health and Mental Hygiene shall adopt rules and regulations for religious exemptions under this subsection.

#### **Article - Environment**

##### **6-303**

(a) (1) [A] NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, A medical laboratory shall report to the Department the results of all blood [lead] tests FOR LEAD POISONING performed on any child 18 years and under.

(2) (I) A MEDICAL LABORATORY SHALL REPORT THE RESULTS OF TESTS UNDER PARAGRAPH (1) OF THIS SUBSECTION CONCERNING A CHILD WHO RESIDES IN BALTIMORE CITY TO THE COMMISSIONER OF THE BALTIMORE CITY HEALTH DEPARTMENT.

(II) THE COMMISSIONER OF THE BALTIMORE CITY HEALTH DEPARTMENT MAY REPORT THE INFORMATION RECEIVED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO THE BALTIMORE IMMUNIZATION REGISTRY PROGRAM.

(B) THE DEPARTMENT MAY REPORT THE RESULTS OF BLOOD TESTS FOR LEAD POISONING TO AN IMMUNIZATION REGISTRY SUBSEQUENTLY DEVELOPED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

[(b)](C) The Department shall report the results of blood [lead] tests FOR LEAD POISONING indicating an elevated blood lead level, as defined by regulation, to:

(1) The local health department in the jurisdiction where the child resides; and

(2) The Department of Health and Mental Hygiene.

[(c)] (D) The Department shall adopt regulations to:

(1) Govern the reporting requirements of laboratories to the Department under subsection (a) of this section; and

(2) Provide for the reporting of information by the Department to local health departments and the Department of Health and Mental Hygiene.

6-304.

(a) The Secretary shall assist local governments, if necessary, to provide case management of children with elevated blood lead levels greater than or equal to 15 micrograms per deciliter (ug/dl).

(b) A local health department that receives the results of a blood [lead] test FOR LEAD POISONING indicating that a child under 6 years of age has an elevated blood lead level greater than or equal to 15 ug/dl and less than 20 ug/dl shall notify:

(1) The child's parents; and

(2) In the case of a child who lives in a rental dwelling unit, the owner of the rental dwelling unit where the child resides.

#### **Article - Health - General**

19-308.6.

~~A PHYSICIAN OR OTHER HEALTH CARE PROVIDER IN BALTIMORE CITY SHALL ADMINISTER A VENOUS BLOOD TEST SCREENING WHEN TREATING A PERSON UNDER THE AGE OF 5 YEARS IN A HOSPITAL OR RELATED INSTITUTION.~~

18-106.

(a) The Secretary shall establish and administer a Lead Poisoning Screening Program that will assure the appropriate screening of children in Maryland for lead poisoning.

(b) The Lead Poisoning Screening Program shall:

(1) Encourage continuity of care with the child's continuing care health care provider;

(2) Promote timely, appropriate screening of children at risk of being poisoned by lead;

(3) Utilize all of the payment mechanisms available to cover lead poisoning screening, including:

(i) Third party payments from insurers;

(ii) The Medical Assistance Program;

(iii) Primary care medical assistance programs established under waiver from the federal government;

(iv) Health maintenance organizations;

(v) Federally qualified and Maryland qualified community health centers; and

(vi) Any other Medicaid reimbursement or waiver to which the State may be entitled under this section;

(4) Target children under 6 years of age;

(5) Provide lead poisoning screening on a sliding fee scale at sites designated by local health departments for children unable to afford lead poisoning screening; and

(6) Employ an initial questionnaire to assess children's exposure to potential lead hazards, except that children residing in AT RISK areas [of highest risk] IDENTIFIED UNDER SUBSECTION (C) OF THIS SECTION shall be screened by a [venous] blood test FOR LEAD POISONING.

(c) The Secretary shall target efforts to promote and to provide BLOOD TESTS FOR lead poisoning [screening to areas of highest] IN AT risk AREAS, as identified by:

(1) Census tract AND ZIP CODE information noting areas with large concentrations of pre-1978 housing; and

(2) Highest rates of lead poisoning as evidenced by information provided to and by the Childhood Lead Registry established and maintained by the Department of the Environment.

(D) THE SECRETARY SHALL REQUIRE PROVIDERS CARING FOR CHILDREN IN AREAS DESIGNATED AS AT RISK FOR LEAD POISONING, AS DETERMINED UNDER SUBSECTION (C) OF THIS SECTION, TO ADMINISTER A BLOOD TEST FOR LEAD POISONING OF CHILDREN:

(I) (i) BY AGE 12 MONTHS; AND

(ii) BY AGE 24 MONTHS; OR

(2) IN ACCORDANCE WITH THE GUIDELINES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION FOR CHILDREN OVER AGE 24 MONTHS WHO HAVE NOT RECEIVED A BLOOD TEST FOR LEAD POISONING.

(E) THE SECRETARY MAY INCLUDE INFORMATION ON BLOOD TESTING FOR LEAD POISONING COLLECTED UNDER THIS SECTION, § 7-403 OF THE EDUCATION ARTICLE, AND §§ 6-303 AND 6-304 OF THE ENVIRONMENT ARTICLE ON ANY IMMUNIZATION REGISTRY DEVELOPED BY THE DEPARTMENT.

(F) THIS SECTION DOES NOT REQUIRE BLOOD LEAD TESTING OF ANY CHILD WHOSE PARENTS OR GUARDIAN OBJECTS, IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY, TO THE TESTING ON THE GROUND THAT IT CONFLICTS WITH THE PARENT'S OR GUARDIAN'S BONA FIDE RELIGIOUS BELIEFS AND PRACTICES

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION DOES NOT REQUIRE BLOOD TESTING OF A CHILD WHOSE PARENT OR GUARDIAN, IN



ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY, OBJECTS TO THE TESTING ON THE GROUND THAT IT CONFLICTS WITH THE PARENT'S OR GUARDIAN'S BONA FIDE RELIGIOUS BELIEFS AND PRACTICES.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF THE RESPONSES OF THE CHILD'S PARENT OR GUARDIAN ON A QUESTIONNAIRE FURNISHED BY THE SECRETARY AND ADMINISTERED BY A PEDIATRICIAN INDICATE THAT THE CHILD IS AT HIGH RISK FOR LEAD POISONING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2000.

Approved May 18, 2000.

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## CHAPTER 678

(House Bill 1226)

AN ACT concerning

### Department of Health and Mental Hygiene - Assisted Living Facilities Grant Program

FOR the purpose of establishing the Assisted Living Facilities Grant Program; authorizing the Board of Public Work, on the recommendation of the Secretary of Health and Mental Hygiene to provide grants under the Program to counties, municipal corporations, and nonprofit organizations for the conversion of public buildings to assisted living facilities, the acquisition of existing buildings or parts of buildings for use as assisted living facilities, the renovation of assisted living facilities, the purchase of capital equipment for assisted living facilities, and the planning, design, and construction of assisted living facilities; requiring the Department of Health and Mental Hygiene to make recommendations; permitting the Board of Public Works to adopt certain regulations; providing certain terms, conditions, and limitations on the allocations, use, and amount of State grants; providing that no proceeds of a grant may be used for certain religious purposes; providing that, under certain circumstances, the State may recover a certain portion of the State funds expended; providing for certain judicial proceedings and liens to enforce the State's right of recovery and the priority of the proceeding and lien; defining certain terms; and generally relating to grants for assisted living facilities.

BY adding to

Article - Health - General

Section 24-1001 through 24-1007, inclusive, to be under the new subtitle "Subtitle 10. Assisted Living Facilities Grant Program"

Annotated Code of Maryland

(1996 Replacement Volume and 1999 Supplement)

2001 2001, ch. 29, § 6;

PARRIS N. GLENDENING, Governor

Ch. 29

**CHAPTER 29****(Senate Bill 196)****AN ACT concerning****Annual Corrective Bill**

**FOR** the purpose of correcting certain errors and omissions in certain articles of the Annotated Code and in certain uncodified laws; clarifying language; correcting certain obsolete references; providing that this Act is not intended to affect any law other than to correct technical errors; repealing certain provisions of law; renumbering certain sections of the Annotated Code; reorganizing certain sections of the Annotated Code; validating and ratifying certain corrections made by the publisher of the Annotated Code; providing for the future correction of certain errors and obsolete provisions by the publisher of the Annotated Code; providing for the effect and construction of certain provisions of this Act; providing for a delayed effective date for certain provisions of this Act; and making this Act an emergency measure.

**BY** repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 2-101(m)(7) and (o)(5), 6-201(r)(13)(v), 9-102(b-5), 9-103, 16-407, and 16-410(d)(3) and (4)

Annotated Code of Maryland

(1998 Replacement Volume and 2000 Supplement)

**BY** repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 9-102(a-1)

Annotated Code of Maryland

(1998 Replacement Volume and 2000 Supplement)

**BY** repealing and reenacting, with amendments,

Article 23A – Corporations – Municipal

Section 2B(a)(1), (b)(4), and (c)(1)

Annotated Code of Maryland

(1998 Replacement Volume and 2000 Supplement)

**BY** repealing and reenacting, with amendments,

Article 27 – Crimes and Punishments

Section 156C(a), 255C(e)(3)(ii) and (q)(10), and 727(b)(10)

Annotated Code of Maryland

(1996 Replacement Volume and 2000 Supplement)

**BY** repealing and reenacting, without amendments,

Article 27 – Crimes and Punishments

Section 230A(b)(1)

Annotated Code of Maryland

(1996 Replacement Volume and 2000 Supplement)

2002 2002, ch. 337; (Effective June 1, 2002)

Ch. 337

2002 LAWS OF MARYLAND

**CHAPTER 337**

**(Senate Bill 788)**

AN ACT concerning

**Statewide Advisory Commission on Immunizations**

FOR the purpose of establishing the Statewide Advisory Commission on Immunizations; providing for the composition of the Commission; requiring the Secretary of the Department of Health and Mental Hygiene to appoint the members of the Commission; requiring a certain member to chair the Commission, establish certain subcommittees, and appoint certain subcommittee chairs; ~~providing for the terms of the members~~; prohibiting a member from receiving compensation but allowing members to be reimbursed for expenses; requiring the Department to provide staffing for the Commission; ~~requiring the Commission to study and recommend whether the State should adopt a certain vaccine program by a certain date; requiring the Commission to continuously monitor the status of certain vaccines and develop a recommendation on a certain plan; requiring the Commission to develop and publish certain recommendations regarding skipped or postponed dosages of vaccines and to develop a certain form to be used by certain schools; requiring the Commission to develop and implement a certain process to delay certain school requirements under certain circumstances; requiring the Commission to develop a certain communications campaign; requiring the Commission to create a plan for a certain infrastructure to be used under certain circumstances; determining where certain vaccine shortages exist and which vaccines are in short supply; developing a certain plan for the equitable distribution of vaccines; studying certain other related issues; requiring the Commission to submit certain reports a certain report; altering the process to be used for adopting certain regulations relating to immunizations and certain blood tests of children; providing for the termination of this Act;~~ and generally relating to the Statewide Advisory Commission on Immunizations.

BY adding to

Article – Health – General

Section 18-214

Annotated Code of Maryland

(2000 Replacement Volume and 2001 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 7-403(a)(1)

Annotated Code of Maryland

(2001 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article - Health - General**

18-214.

(A) IN THIS SECTION, "VACCINE" MEANS A PRODUCT INTENDED TO ELICIT, IN HUMANS, ACTIVE OR PASSIVE IMMUNITY AGAINST AN INFECTIOUS AGENT OR PRODUCT OF AN INFECTIOUS AGENT.

~~(A)~~ (B) THERE IS A STATEWIDE ADVISORY COMMISSION ON IMMUNIZATIONS.

~~(B)~~ (C) THE COMMISSION CONSISTS OF AT LEAST THE FOLLOWING MEMBERS:

(1) ONE PHYSICIAN MEMBER OF THE MEDICAL AND CHIRURGICAL FACULTY PUBLIC HEALTH COUNCIL;

~~(2) ONE PHYSICIAN MEMBER OF THE MARYLAND CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS WHO SPECIALIZES IN INFECTIOUS DISEASES~~  
THE CHAIRPERSON OF THE MARYLAND AND CHILDHOOD IMMUNIZATION PARTNERSHIP;

(3) ~~ONE~~ TWO PHYSICIAN MEMBER MEMBERS OF THE MARYLAND CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS WITH EXPERIENCE IN PRIVATE PRACTICE; PRACTICE AND INFECTIOUS DISEASES;

(4) ONE PHYSICIAN MEMBER OF THE MARYLAND ACADEMY OF FAMILY PHYSICIANS;

(5) ONE PHYSICIAN MEMBER OF THE AMERICAN COLLEGE OF PHYSICIANS - INTERNAL MEDICINE SOCIETY OF MARYLAND;

~~(6) FOUR PHYSICIANS WHO ADMINISTER VACCINES~~ THE EXECUTIVE DIRECTOR OF THE MARYLAND PARTNERSHIP FOR PREVENTION;

(7) ONE LOCAL HEALTH OFFICER;

~~(8) ONE REPRESENTATIVE FROM THE DEPARTMENT'S CENTER FOR IMMUNIZATIONS;~~

~~(9)~~ (8) ONE REPRESENTATIVE FROM THE DEPARTMENT'S VACCINES FOR CHILDREN PROGRAM; AND

~~(10) (9) ONE REPRESENTATIVE OF THE MARYLAND SCHOOL SYSTEM, NOMINATED BY THE STATE SUPERINTENDENT OF SCHOOLS~~ THE MARYLAND STATE EPIDEMIOLOGIST, ONE REPRESENTATIVE OF THE MARYLAND SCHOOL SYSTEM WITH KNOWLEDGE OF THE IMMUNIZATIONS REQUIRED OF CHILDREN ENTERING SCHOOLS;

~~(11) (10) THE MARYLAND STATE PUBLIC HEALTH VETERINARIAN EPIDEMIOLOGIST;~~

~~(12) ONE REPRESENTATIVE FROM THE VACCINE PRODUCTION AND MANUFACTURING INDUSTRY;~~

~~(10)~~ (11) ONE REPRESENTATIVE FROM A PUBLIC HEALTH CONSUMER ADVOCACY GROUP; AND

~~(14)~~ (12) ONE NURSE PRACTITIONER.

~~(6)~~ (D) THE SECRETARY OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL APPOINT THE MEMBERSHIP OF THE COMMISSION, BASED ON THE RECOMMENDATION OF THE APPROPRIATE MEDICAL SOCIETY OR AGENCY;

~~(8)~~ (E) THE PHYSICIAN MEMBER OF THE MEDICAL AND CHIRURGICAL FACULTY PUBLIC HEALTH COUNCIL SHALL:

(1) CHAIR THE COMMISSION;

(2) ESTABLISH SUBCOMMITTEES TO FACILITATE THE WORK OF THE COMMISSION; AND

(3) APPOINT SUBCOMMITTEE CHAIRS FROM AMONG THE COMMISSION MEMBERS.

~~(5)~~ (1) THE TERM OF A MEMBER IS 4 YEARS.

~~(9)~~ A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

~~(7)~~ (F) A MEMBER OF THE COMMISSION MAY NOT RECEIVE COMPENSATION BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

~~(6)~~ (F) (G) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL PROVIDE THE STAFFING FOR THE COMMISSION.

~~(11)~~ (G) (H) THE COMMISSION SHALL:

~~(1)~~ STUDY AND RECOMMEND ON OR BEFORE DECEMBER 15, 2003 WHETHER THE STATE SHOULD ADOPT A PROGRAM TO PURCHASE VACCINES FOR ALL CHILDREN, KNOWN AS UNIVERSAL PURCHASE THROUGH POOLED FUNDING FROM THE FEDERAL VACCINES FOR CHILDREN PROGRAM, INSURERS, AND OTHER CURRENT FUNDERS OF VACCINE;

~~(2)~~ CONTINUOUSLY MONITOR THE INVENTORY OF VACCINES IN THE STATE INCLUDING:

~~(i)~~ DETERMINING WHERE COMMUNITY VACCINE SHORTAGES EXIST AND WHICH VACCINES ARE IN SHORT SUPPLY;

~~(ii)~~ DEVELOPING A RECOMMENDATION ON A PLAN FOR THE EQUITABLE DISTRIBUTION OF VACCINES; AND

~~(iii)~~ REPORTING ANY FINDINGS TO THE DEPARTMENT IN A TIMELY MANNER;

~~(3)~~ DEVELOP AND PUBLISH UNIFORM AND CONSISTENT STATE SPONSORED RECOMMENDATIONS FOR SKIPPED OR POSTPONED DOSAGES OF VACCINES AND DEVELOP A FORM THAT SHALL BE USED BY SCHOOLS IN THE STATE;

PARRIS N. GLENDENING, Governor

Ch. 337

~~(4) DEVELOP AND IMPLEMENT A UNIFORM PROCESS FOR SUSPENDING SCHOOL ENTRY VACCINATION REQUIREMENTS WHEN VACCINE SHORTAGES DELAY IMMUNIZATION OF CHILDREN;~~

~~(5) DEVELOP A COMMUNICATIONS CAMPAIGN TO INFORM THE GENERAL PUBLIC IN THE EVENT OF A VACCINE SHORTAGE; AND~~

~~(6) CREATE A PLAN FOR AN INFRASTRUCTURE THAT CAN EQUITABLY DISTRIBUTE VACCINATIONS IN THE EVENT OF A BIOTERRORISM EMERGENCY.~~

(1) DETERMINE WHERE COMMUNITY VACCINE SHORTAGES EXIST AND WHICH VACCINES ARE IN SHORT SUPPLY;

(2) DEVELOP A RECOMMENDATION FOR A PLAN TO EFFECTUATE THE EQUITABLE DISTRIBUTION OF VACCINES; AND

(3) STUDY AND MAKE RECOMMENDATIONS ABOUT OTHER RELATED ISSUES AS DETERMINED BY THE COMMISSION, INCLUDING BUT NOT LIMITED TO:

(I) IMMUNIZATIONS REQUIRED OF CHILDREN ENTERING SCHOOLS IN TIMES OF VACCINE SHORTAGE;

(II) ALL AVAILABLE OPTIONS FOR THE PURCHASING OF VACCINES;

(III) ELIMINATION OF ANY VACCINE DISTRIBUTION DISPARITIES;

(IV) A PUBLIC EDUCATION CAMPAIGN IN THE EVENT OF A VACCINE SHORTAGE;

(V) THE AVAILABILITY AND AFFORDABILITY OF ADULT AND CHILDHOOD VACCINES; AND

(VI) STRATEGIES TO INCREASE IMMUNIZATIONS AMONG THOSE ADULTS AND CHILDREN RECOMMENDED TO RECEIVE IMMUNIZATIONS, INCLUDING CATCH-UP IMMUNIZATIONS.

~~(D) ON OR BEFORE DECEMBER 15 OF EACH YEAR, THE COMMISSION SHALL SUBMIT A REPORT ON THE STATUS OF VACCINE SHORTAGES AND IMMUNIZATION RATES IN THE STATE, ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE ENVIRONMENTAL MATTERS COMMITTEE.~~

#### **Article - Education**

7-403.

(a) (1) In cooperation with the State Board and the [Medical and Chirurgical Faculty of Maryland] STATEWIDE ADVISORY COMMISSION ON IMMUNIZATIONS, the Department of Health and Mental Hygiene shall adopt rules and regulations regarding the immunizations and blood tests for lead poisoning required of children entering schools.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 15, 2003, the Commission shall report on the Commission's recommendations regarding the universal purchase of vaccine described in § 18-214(h)(1) of the Health General Article, as enacted by Section 1 of this Act, to the Governor and, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the Environmental Matters Committee.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October June 1, 2002. It shall remain effective for a period of 3 years and, at the end of September 30 May 31, 2005, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

~~SECTION 3. 2 AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2003.~~

Approved May 6, 2002.

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## CHAPTER 338

(Senate Bill 802)

AN ACT concerning

### Vehicle Laws - Child Booster Seats

FOR the purpose of including "child booster seat" in the definition of "child safety seat"; altering the definition of "child safety seat"; altering the circumstances under which a child is required to be secured in a child safety seat when traveling in a motor vehicle registered in the State; requiring a child to be secured in a child safety seat under certain circumstances when traveling in a motor vehicle registered outside the State; providing that certain provisions of this Act do not apply to a person transporting a child in a motor vehicle registered in another state, in the District of Columbia, or in another country until a certain date; providing for the termination of a certain provision of this Act; providing for a delayed effective date; and generally relating to child booster seats.

BY repealing and reenacting, with amendments,

Article - Transportation

Section 22-412.2

Annotated Code of Maryland

(1999 Replacement Volume and 2001 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:



2003 2003, ch. 178, § 1; (Approved April 22, 2003) (Effective July 1, 2003)

ROBERT L. EHRLICH, JR., Governor

Ch. 178

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2003. It shall remain effective for a period of ~~3 years~~ 1 year and 1 month and, at the end of ~~September 30, 2006~~ October 31, 2004, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved April 22, 2003.

## CHAPTER 178

(House Bill 819)

AN ACT concerning

### Education – Lead Poisoning Tests – Administering and Reporting

FOR the purpose of requiring certain entities to cooperate with the Department of Health and Mental Hygiene to adopt certain regulations regarding immunization and blood tests for lead poisoning; requiring a parent or legal guardian of a child to provide certain documentation certifying that the child has undergone certain testing; requiring certain programs or schools to report the name, last known address, and telephone number of each child for whom certain documentation is not provided; requiring the Secretary of Health and Mental Hygiene to require certain providers caring for children to administer certain blood tests for lead poisoning within a certain time frame; requiring the Department of Health and Mental Hygiene to consult with a certain entity before adopting rules and regulations regarding blood tests for lead poisoning; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to administering and reporting of lead poisoning testing of children.

BY repealing and reenacting, with amendments,

Article – Education

Section 7-403

Annotated Code of Maryland

(2001 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 7-403

Annotated Code of Maryland

(2001 Replacement Volume and 2002 Supplement)

(As enacted by Chapter 337 of the Acts of the General Assembly of 2002)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 18-106(d)



## Annotated Code of Maryland

(2000 Replacement Volume and 2002 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article - Education**

7-403.

(a) (1) In cooperation with the State Board and the [Statewide Advisory Commission on Immunizations] ~~MARYLAND STATE MEDICAL SOCIETY~~ MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND, the Department of Health and Mental Hygiene shall adopt rules and regulations regarding [the immunizations and] blood tests for lead poisoning required of children entering schools.

(2) IN COOPERATION WITH THE STATE BOARD AND THE STATEWIDE ADVISORY COMMISSION ON IMMUNIZATIONS, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL ADOPT RULES AND REGULATIONS REGARDING IMMUNIZATIONS REQUIRED OF CHILDREN ENTERING SCHOOLS.

(3) These rules and regulations shall:

(i) Be adopted in compliance with the Administrative Procedure Act;

(ii) Provide that any child may have the immunization administered by his personal physician; and

(iii) 1. By September 2003, in areas designated as at risk for lead poisoning, as determined under § 18-106 of the Health - General Article, when a child enters a public prekindergarten program, kindergarten program, or first grade, require the parent or legal guardian of the child to provide [evidence of the results of the child's] DOCUMENTATION FROM A PHYSICIAN HEALTH CARE PROVIDER, ON A FORM DEVELOPED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, CERTIFYING THAT THE CHILD HAS UNDERGONE blood [tests] TESTING for lead poisoning administered in accordance with the guidelines of the Centers for Disease Control and Prevention in the screening of young children for lead poisoning: Guidance for State and Local Public Health Officials (November 1997) and any subsequent guidelines; and

2. By September 2003, require a program or school to report [the information received under sub-subparagraph 1 of this subparagraph] THE NAME, LAST KNOWN ADDRESS, AND TELEPHONE NUMBER OF EACH CHILD FOR WHOM ~~PHYSICIAN-CERTIFIED~~ CERTIFIED DOCUMENTATION OF A LEAD TEST IS NOT PROVIDED UNDER ITEM 1 OF THIS ITEM, AS DETERMINED BY REGULATION, to the local health department in the jurisdiction where the child resides.

(3) Any requirement for the administration of pertussis vaccine shall be consistent with § 18-332(b) of the Health - General Article.

(b) (1) Unless the Secretary of Health and Mental Hygiene declares an emergency or an epidemic of disease, a child whose parent or guardian objects to immunization on the ground that it conflicts with the parent's or guardian's bona fide religious beliefs and practices may not be required to present a physician's certification of immunization in order to be admitted to school.

(2) The Secretary of Health and Mental Hygiene shall adopt rules and regulations for religious exemptions under this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

#### Article - Education

7-403.

(a) (1) In cooperation with the State Board and the ~~Medical and Chirurgical Faculty of Maryland~~ ~~MARYLAND STATE MEDICAL SOCIETY~~, the Department of Health and Mental Hygiene shall adopt rules and regulations regarding [the immunizations and] blood tests for lead poisoning required of children entering schools.

(2) IN COOPERATION WITH THE STATE BOARD AND THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL ADOPT RULES AND REGULATIONS REGARDING IMMUNIZATIONS REQUIRED OF CHILDREN ENTERING SCHOOLS.

(3) These rules and regulations shall:

(i) Be adopted in compliance with the Administrative Procedure Act;

(ii) Provide that any child may have the immunization administered by his personal physician; and

(iii) 1. By September 2003, in areas designated as at risk for lead poisoning, as determined under § 18-106 of the Health - General Article, when a child enters a public prekindergarten program, kindergarten program, or first grade, require the parent or legal guardian of the child to provide [evidence of the results of the child's] DOCUMENTATION FROM A PHYSICIAN HEALTH CARE PROVIDER, ON A FORM DEVELOPED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, CERTIFYING THAT THE CHILD HAS UNDERGONE blood [tests] TESTING for lead poisoning administered in accordance with the guidelines of the Centers for Disease Control and Prevention in the screening of young children for lead poisoning: Guidance for State and Local Public Health Officials (November 1997) and any subsequent guidelines; and

2. By September 2003, require a program or school to report [the information received under sub-subparagraph 1 of this subparagraph] THE NAME, LAST KNOWN ADDRESS, AND TELEPHONE NUMBER OF EACH CHILD FOR WHOM ~~PHYSICIAN-CERTIFIED~~ CERTIFIED DOCUMENTATION OF A LEAD TEST IS NOT

PROVIDED UNDER ITEM 1 OF THIS ITEM, AS DETERMINED BY REGULATION, to the local health department in the jurisdiction where the child resides.

(3) Any requirement for the administration of pertussis vaccine shall be consistent with § 18-332(b) of the Health – General Article.

(b) (1) Unless the Secretary of Health and Mental Hygiene declares an emergency or an epidemic of disease, a child whose parent or guardian objects to immunization on the ground that it conflicts with the parent's or guardian's bona fide religious beliefs and practices may not be required to present a physician's certification of immunization in order to be admitted to school.

(2) The Secretary of Health and Mental Hygiene shall adopt rules and regulations for religious exemptions under this subsection.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

#### Article – Health – General

18-106.

(d) The Secretary shall require providers caring for children in areas designated as at risk for lead poisoning, as determined under subsection (c) of this section, to administer a blood test for lead poisoning of children:

~~(1) DURING PREVENTIVE HEALTH MAINTENANCE SERVICES PROVIDED IN ACCORDANCE WITH THE STANDARD PRACTICE FOR PEDIATRIC CARE;~~

~~(i) [By age 12 months] AT THE CHILD'S 12-MONTH VISIT; and~~

~~(ii) [By age 24 months] AT THE CHILD'S 24-MONTH VISIT; or~~

(1) WITHIN THE TIME FRAME SPECIFIED IN REGULATIONS ADOPTED BY THE DEPARTMENT; OR

(2) In accordance with the guidelines of the Centers for Disease Control and Prevention for children over age 24 months who have not received a blood test for lead poisoning.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Sections 1 and 2 of this Act, the Department of Health and Mental Hygiene shall consult with the Coalition to End Childhood Lead Poisoning before adopting rules and regulations regarding blood tests for lead poisoning.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of the termination provision specified in Section 2 of Chapter 337 of the Acts of the General Assembly of 2002. If that termination provision takes effect, Section 1 of this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 5 of this Act, this Act shall take effect July 1, 2003.

Approved April 22, 2003.

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**CHAPTER 179**

**(House Bill 821)**

AN ACT concerning

**Juvenile Causes - Treatment Service Plans**

FOR the purpose of requiring that a juvenile counselor meet with a certain child and the child's parent, guardian, or legal custodian in making a treatment service plan for the child; requiring the juvenile counselor to document when a child's parent, guardian, or legal custodian is unable or refuses to meet with the juvenile counselor and to indicate the reason for the inability or refusal to meet, if known; requiring that a treatment service plan include certain information; and generally relating to treatment service plans.

BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings

Section 3-8A-20.1

Annotated Code of Maryland

(2002 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article - Courts and Judicial Proceedings**

**3-8A-20.1.**

(a) (1) In this section, "treatment service plan" means a plan recommended at a disposition hearing under § 3-8A-19 of this subtitle or at a disposition review hearing under this section by the Department of Juvenile Justice to the court proposing specific assistance, guidance, treatment, or rehabilitation of a child.

(2) IN MAKING A TREATMENT SERVICE PLAN, A JUVENILE COUNSELOR SHALL MEET WITH THE CHILD WHO IS THE SUBJECT OF THE TREATMENT SERVICE PLAN AND THE CHILD'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN TO DISCUSS THE TREATMENT SERVICE PLAN.

(3) IF A CHILD'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN IS UNABLE OR REFUSES TO MEET WITH THE JUVENILE COUNSELOR, THE TREATMENT SERVICE PLAN SHALL INDICATE THAT THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN IS UNABLE OR REFUSES TO MEET, AND THE REASON FOR THE INABILITY OR REFUSAL TO MEET, IF KNOWN.

(4) ~~THE~~ AT A MINIMUM, THE TREATMENT SERVICE PLAN SHALL INCLUDE:

2004 2004, ch. 25. Effective on enacted date (Enacted October 1, 2004)

Ch. 25

2004 LAWS OF MARYLAND

(2) The Charles H. Hickey, Jr. School shall transmit the complete student record to the local school system where a student released from the Charles H. Hickey, Jr. School is enrolled within 5 days of notice of the student's enrollment.

(3) The State Superintendent may impose appropriate corrective action including withholding or redirection of funding if either a local school system or the Charles H. Hickey, Jr. School fails to comply with the timely transmission of the student record.

(c) The Department of Juvenile Services shall work cooperatively with the Department to:

(1) Facilitate the full implementation of the educational program at the Charles H. Hickey, Jr. School; and

(2) Make students available for attendance during scheduled class time.

**DRAFTER'S NOTE:**

Error: Function paragraph of bill being cured incorrectly indicated that § 23-301, rather than § 22-301, of the Education Article was being added.

Occurred: Chapter 53 (House Bill 860) of the Acts of 2003.

**SECTION 3. AND BE IT FURTHER ENACTED,** That the Drafter's Notes contained in this Act are not law and may not be considered to have been enacted as part of this Act.

**SECTION 4. AND BE IT FURTHER ENACTED,** That Section 2 of this Act shall take effect July 1, 2004, contingent on the taking effect of Section 5 of Chapter 53 of the Acts of the General Assembly of 2003, and if Section 5 of Chapter 53 does not become effective, Section 2 of this Act shall be null and void without the necessity of further action by the General Assembly.

**SECTION 5. AND BE IT FURTHER ENACTED,** That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly and, except as provided in Section 4 of this Act, shall take effect from the date it is enacted.

Approved April 13, 2004.

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**CHAPTER 25**

**(Senate Bill 74)**

**AN ACT concerning**

**Annual Corrective Bill**

**FOR** the purpose of correcting certain errors and omissions in certain articles of the Annotated Code and in certain uncodified laws; clarifying language; correcting certain obsolete references; providing that this Act is not intended to affect any

11-721.

(a) A registrant may not knowingly fail to register, knowingly fail to provide the written notice required under [§ 11-705(d), § 11-705(e), or § 11-705(f)] § 11-705(D), (E), OR (F) of this subtitle, or knowingly provide false information of a material fact as required by this subtitle.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 11-721(a) of the Criminal Procedure Article.

Occurred: Ch. 194, Acts of 2002.

**Article - Education**

4-205.

(k) [(1)] The county superintendent shall:

[(i)] (1) Take the initiative in the preparation and presentation of the annual school budget; and

[(ii)] (2) Seek in every way to secure adequate funds from local authorities for the support and development of the public schools in the county.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 4-205(k) of the Education Article.

Occurred: Ch. 21, Acts of 2003. Correction by the publisher of the Annotated Code in the 2003 Supplement to the Education Article is ratified by this Act.

7-101.

(d) Section 4-122.1 of this article shall apply to the education funding of a child in an informal kinship care relationship if the fiscal impact of the requirements of [subsection (c)] SUBSECTIONS (B) AND (C) of this section exceed 0.1% of a county board's total operating budget for a fiscal year.

**DRAFTER'S NOTE:**

Error: Incomplete cross-reference in § 7-101(d) of the Education Article.

Occurred: Ch. 207, Acts of 2003.

7-305.1.

(i) The county board shall pay to the juvenile services alternative education [pilot] program the basic current expenses per pupil for each student transferred to the juvenile services alternative education [pilot] program from the county's schools.

**DRAFTER'S NOTE:**

Ch. 25

## 2004 LAWS OF MARYLAND

Error: Misnomer in § 7-305.1(i) of the Education Article.

Occurred: Ch. 433, Acts of 2003.

7-403.

(a) (1) In cooperation with the State Board and the Medical and Chirurgical Faculty of Maryland, the Department of Health and Mental Hygiene shall adopt rules and regulations regarding blood tests for lead poisoning required of children entering schools.

(2) In cooperation with the State Board and the Statewide Advisory Commission on Immunizations, the Department of Health and Mental Hygiene shall adopt rules and regulations regarding immunizations required of children entering schools.

(3) These rules and regulations shall:

(i) Be adopted in compliance with the Administrative Procedure Act;

(ii) Provide that any child may have the immunization administered by his personal physician; and

(iii) 1. By September 2003, in areas designated as at risk for lead poisoning, as determined under § 18-106 of the Health - General Article, when a child enters a public prekindergarten program, kindergarten program, or first grade, require the parent or legal guardian of the child to provide documentation from a health care provider, on a form developed by the Department of Health and Mental Hygiene, certifying that the child has undergone blood testing for lead poisoning administered in accordance with the guidelines of the Centers for Disease Control and Prevention in the screening of young children for lead poisoning: Guidance for State and Local Public Health Officials (November 1997) and any subsequent guidelines; and

2. By September 2003, require a program or school to report the name, last known address, and telephone number of each child for whom certified documentation of a lead test is not provided under item 1 of this item, as determined by regulation, to the local health department in the jurisdiction where the child resides.

[(3)] (4) Any requirement for the administration of pertussis vaccine shall be consistent with § 18-332(b) of the Health - General Article.

## DRAFTER'S NOTE:

Error: Tabulation error in § 7-403(a) of the Education Article.

Occurred: Ch. 178, Acts of 2003. Correction by the publisher of the Annotated Code in the 2003 Supplement to the Education Article is ratified by this Act.

Annotated Code of Maryland  
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\*\*\* Statutes current through Chapter 1 of the 2014 General Assembly Regular  
Session \*\*\*

\*\*\* Annotations current through December 7, 2013 \*\*\*

HEALTH - GENERAL  
TITLE 18. DISEASE PREVENTION  
SUBTITLE 3. SPECIFIC DISEASES  
PART V. PERTUSSIS  
**Medical Exemption**

[GO TO MARYLAND STATUTES ARCHIVE DIRECTORY](#)

Md. HEALTH-GENERAL Code Ann. § 18-332 (2014)

§ 18-332. Adoption of guidelines

(a) Contents. -- The Department shall adopt guidelines, after notice and public hearing in accordance with the Administrative Procedure Act, setting forth:

(1) The circumstances under which pertussis vaccine should not be administered;

(2) The circumstances under which administration of the vaccine should be delayed;

(3) Any categories of potential recipients who are significantly more vulnerable to major adverse reactions than is the general population; and

(4) Procedures to notify all physicians of the content of the final guidelines and all updates issued thereafter.

(b) Exceptions. -- The administration of pertussis vaccine to an individual may not be required by any provision of law if, in the physician's medical judgment:

(1) The circumstances specified under subsection (a) (1) or (2) of this section are present; or

(2) Taking into account the information specified under subsection (a) (3) of this section as well as all other relevant information, and the risk to the potential recipient outweighs the benefits both to the potential recipient and to the public in administering the vaccine.



(c) Emergency authority of Secretary. -- Nothing in this section shall be construed to affect any emergency authority of the Secretary under any other provision of law to protect the public health.

**HISTORY:** 1984, chs. 578, 785.

1984 1984, chs. 578, 785. (Approved May 29, 1984)

HARRY HUGHES, Governor

2959

(a) On January 1 of 1983 and 1984 only, the sum of \$100,000 of the amount of the winning and not redeemed parimutuel tickets required to be paid to general funds of the State by Section 23 of this article shall be placed in a special account by the Comptroller. The Department of [Economic and Community Development] BUDGET AND FISCAL PLANNING may approve grants from the account to the Council only for the purposes stated in Section 29 of this article. In order to receive the grants, the Council shall submit to the Department for approval a plan for the use of any grants. The amounts of any grants authorized by the Department shall be matched by an equal amount of funds to be provided by the Council from any funds available to the Council.

(b) The Council shall submit to the Department, not later than September 1 of 1983, 1984 and 1985 only, a report of the revenues and expenditures of the Council, from all sources, for the fiscal year ending the prior June 30, and a report of the Council's actions in promoting the Maryland horse racing and breeding industry.

SECTION 2. AND BE IT FURTHER ENACTED, That any appropriations made to the Department of Economic and Community Development for the Maryland Horse Racing Council may be transferred to the Department of Budget and Fiscal Planning by approved budget amendment.

SECTION -2- 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 1984.

Approved May 29, 1984.

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#### CHAPTER 578

(Senate Bill 928)

AN ACT concerning

#### State Mandated Immunizations - Pertussis

FOR the purpose of defining certain terms; providing for the development and disbursement of information concerning pertussis and the pertussis vaccine; requiring parents to be informed about State mandated immunizations including the risk of pertussis and pertussis vaccines; requiring recordkeeping and reporting by health care providers and the collection of data by the Department of Health and Mental Hygiene with respect to pertussis and major adverse reactions to pertussis vaccines; requiring the Department to adopt issue certain regulations guidelines; establishing criteria under which pertussis vaccines should not be

2960

LAWS OF MARYLAND

Ch. 578

administered; and generally relating to pertussis and the administration of pertussis vaccines.

BY adding to

Article - Health - General  
Section 4-204(c); and 18-328 through 18-332 to be under the  
new part "Part V. Pertussis"  
Annotated Code of Maryland  
(1982 Volume and 1983 Supplement)

BY adding to

Article - Education  
Section 7-402(a)(3)  
Annotated Code of Maryland  
(1978 Volume and 1983 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### Article - Health - General

4-204.

~~(G)--THE--SECRETARY--SHALL--PROVIDE--THAT--WHENEVER--A--BIRTH--CERTIFICATE--IS--ISSUED--FOR--A--CHILD--UNDER--THE--AGE--OF--6--YEARS--IT--SHALL--BE--ACCOMPANIED--BY--A--FORM--THAT--GIVES--INFORMATION~~

(C) WHENEVER A RESIDENT BIRTH OCCURS, THE SECRETARY SHALL PROMPTLY PROVIDE PARENTS OF THE NEWBORN CHILD WITH INFORMATION ON IMMUNIZATIONS MANDATED BY THIS STATE OR REQUIRED FOR ADMISSION TO A PUBLIC SCHOOL IN THIS STATE.

#### PART V. PERTUSSIS

18-328.

(A) IN PART V. OF THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "HEALTH CARE PROVIDER" MEANS ANY LICENSED HEALTH CARE PROFESSIONAL, ORGANIZATION, OR INSTITUTION, WHETHER PUBLIC OR PRIVATE, UNDER WHOSE AUTHORITY PERTUSSIS VACCINE IS ADMINISTERED.

(C) "PERTUSSIS VACCINE" MEANS ANY VACCINE THAT CONTAINS MATERIALS INTENDED TO PREVENT THE OCCURRENCE OF PERTUSSIS, WHETHER OR NOT THE MATERIALS ARE ADMINISTERED SEPARATELY OR IN CONJUNCTION WITH OTHER MATERIALS INTENDED TO PREVENT THE OCCURRENCE OF OTHER DISEASES.

(D) "MAJOR ADVERSE REACTION" MEANS:

HARRY HUGHES, Governor

2961

(1) ANY SERIOUS ILLNESS, DISABILITY, OR IMPAIRMENT OF MENTAL, EMOTIONAL, BEHAVIORAL, OR PHYSICAL FUNCTIONING OR DEVELOPMENT, THE FIRST MANIFESTATION OF WHICH APPEARS WITHIN 7 DAYS AFTER THE DATE OF ADMINISTRATION OF PERTUSSIS VACCINE AND WHICH, ~~---MORE---LIKELY---THAN---NOT---~~ IS CAUSED BY OR IS SIGNIFICANTLY CONTRIBUTED TO BY THE PERTUSSIS VACCINE, AND FOR WHICH THERE IS REASONABLE SCIENTIFIC OR MEDICAL EVIDENCE THAT PERTUSSIS VACCINE CAUSES, OR SIGNIFICANTLY CONTRIBUTES TO, SUCH EFFECT; AND

(2) ANY OTHER REACTION, WHICH THE DEPARTMENT, AFTER CONSULTATION WITH HEALTH ~~---CARE---PROVIDERS~~ THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND, DETERMINES BY REGULATION GUIDELINE IS A BASIS FOR NOT CONTINUING WITH PERTUSSIS VACCINE ADMINISTRATION.

18-329.

(A) (1) PRIOR TO THE ADMINISTRATION OF PERTUSSIS VACCINE, THE HEALTH CARE PROVIDER SHALL PROVIDE TO THE INDIVIDUAL'S PARENT OR GUARDIAN WRITTEN INFORMATION SATISFYING THE REQUIREMENTS OF THIS SUBSECTION, AND BY APPROPRIATE INQUIRIES ATTEMPT TO ELICIT THE INFORMATION NECESSARY TO MAKE THE DETERMINATIONS REQUIRED BY § 18-332(B) OF THIS SUBTITLE.

(2) THE INFORMATION REQUIRED UNDER § 4-204(C) OF THIS ARTICLE, AS TO PERTUSSIS VACCINE, AND UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE FREQUENCY, SEVERITY, AND POTENTIAL LONG-TERM EFFECTS OF PERTUSSIS;

(II) POSSIBLE ADVERSE REACTIONS TO PERTUSSIS VACCINE WHICH, IF THEY OCCUR, SHOULD BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE HEALTH CARE PROVIDER;

(III) A FORM LISTING SYMPTOMS TO BE MONITORED AND CONTAINING PLACES WHERE INFORMATION CAN BE RECORDED TO ASSIST IN REPORTING TO THE HEALTH CARE PROVIDER, LOCAL HEALTH OFFICER, AND THE DEPARTMENT;

(IV) MEASURES PARENTS SHOULD TAKE TO REDUCE THE RISK OF, OR TO RESPOND TO, ANY MAJOR ADVERSE REACTION;

(V) EARLY WARNING SIGNS OR SYMPTOMS TO WHICH PARENTS SHOULD BE ALERT AS POSSIBLE PRECURSORS TO A MAJOR ADVERSE REACTION;

(VI) WHEN AND TO WHOM PARENTS SHOULD REPORT ANY MAJOR ADVERSE REACTION; AND

(VII) A SUMMARY OF THE IMMUNIZATION REQUIREMENTS ~~RELATING--TO--PERTUSSIS--VACCINE~~ ADOPTED UNDER § 7-402(A) OF THE EDUCATION ARTICLE--, INCLUDING THOSE RELATED TO PERTUSSIS VACCINE; AND

2962

LAWS OF MARYLAND

Ch. 578

(VIII) THE INFORMATION REQUIRED UNDER SECTION 18-332(A)(1) THROUGH (3) OF THIS SUBTITLE.

(B) THE DEPARTMENT BY REGULATION GUIDELINE AND CONSISTENT WITH § 18-331(B) OF THIS SUBTITLE SHALL PRESCRIBE THE FORM AND CONTENT OF THE INFORMATION PROVIDED TO PARENTS IN ACCORDANCE WITH THIS SECTION.

18-330.

(A) AT THE TIME OF ADMINISTRATION OF PERTUSSIS VACCINE TO AN INDIVIDUAL, THE HEALTH CARE PROVIDER SHALL RECORD IN THE ~~INDIVIDUAL'S PERMANENT MEDICAL RECORD~~ A PERMANENT RECORD TO WHICH THE PATIENT OR THE PATIENT'S PARENT OR GUARDIAN SHALL HAVE ACCESS ON REQUEST:

- (1) THE DATE OF EACH VACCINATION;
- (2) THE MANUFACTURER AND LOT NUMBER OF THE VACCINE USED FOR EACH;
- (3) ANY OTHER IDENTIFYING INFORMATION ON THE VACCINE USED; AND
- (4) THE NAME AND TITLE OF THE HEALTH CARE PROVIDER.

(B) WITHIN 24 HOURS ANY HEALTH CARE PROVIDER WHO HAS ADMINISTERED PERTUSSIS VACCINE TO AN INDIVIDUAL AND HAS REASON TO BELIEVE THAT THE INDIVIDUAL HAS HAD A MAJOR ADVERSE REACTION TO THE VACCINE SHALL:

- (1) RECORD ALL RELEVANT INFORMATION IN THE INDIVIDUAL'S PERMANENT MEDICAL RECORD; AND
- (2) REPORT THE INFORMATION, INCLUDING THE MANUFACTURER'S NAME AND LOT NUMBER, ~~TO THE COUNTY HEALTH OFFICER WHO SHALL IMMEDIATELY NOTIFY THE MANUFACTURER AND PROMPTLY FORWARD THE INFORMATION TO THE DEPARTMENT.~~ TO THE LOCAL HEALTH OFFICER WHO SHALL IMMEDIATELY FORWARD THE INFORMATION TO THE DEPARTMENT. ON RECEIPT OF THE INFORMATION, THE DEPARTMENT SHALL IMMEDIATELY NOTIFY THE VACCINE MANUFACTURER.

18-331.

(A) BY REGULATION GUIDELINE, THE DEPARTMENT SHALL ESTABLISH A SYSTEM, SUFFICIENT FOR THE PURPOSES OF SUBSECTIONS (B) AND (C) OF THIS SECTION, TO COLLECT DATA FROM THE ~~COUNTY~~ LOCAL HEALTH OFFICERS AND FROM PUBLIC AND PRIVATE HEALTH CARE PROVIDERS, AND FROM PARENTS ON THE INCIDENCE OF PERTUSSIS AND MAJOR ADVERSE REACTIONS TO PERTUSSIS VACCINE.

(B) ON THE BASIS OF INFORMATION COLLECTED UNDER THIS SUBSECTION AND OF OTHER INFORMATION AVAILABLE, THE DEPARTMENT SHALL PERIODICALLY REVISE AND UPDATE THE INFORMATION REQUIRED BY § 18-329 AND THE REGULATIONS GUIDELINES ADOPTED UNDER § 18-332 OF THIS SUBTITLE.

HARRY HUGHES, Governor

2963

(C) (1) THE DEPARTMENT SHALL REPORT TO THE UNITED STATES CENTERS FOR DISEASE CONTROL ALL INFORMATION COLLECTED UNDER § 18-331(A), INCLUDING THAT RECEIVED UNDER § 18-330(B) OF THIS SUBTITLE.

(2) SUBJECT TO § 2-1312 OF THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT SHALL REPORT ANNUALLY TO THE GENERAL ASSEMBLY ON THE INCIDENCE OF PERTUSSIS AND OF MAJOR ADVERSE REACTIONS TO PERTUSSIS VACCINE.

18-332.

(A) THE DEPARTMENT SHALL ADOPT REGULATIONS GUIDELINES, AFTER NOTICE AND PUBLIC HEARING IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT, SETTING FORTH:

(1) THE CIRCUMSTANCES UNDER WHICH PERTUSSIS VACCINE SHOULD NOT BE ADMINISTERED;

(2) THE CIRCUMSTANCES UNDER WHICH ADMINISTRATION OF THE VACCINE SHOULD BE DELAYED; AND

(3) ANY CATEGORIES OF POTENTIAL RECIPIENTS WHO ARE SIGNIFICANTLY MORE VULNERABLE TO MAJOR ADVERSE REACTIONS THAN IS THE GENERAL POPULATION--; AND

(4) PROCEDURES TO NOTIFY ALL PHYSICIANS OF THE CONTENT OF THE FINAL GUIDELINES AND ALL UPDATES ISSUED THEREAFTER.

(B) THE ADMINISTRATION OF PERTUSSIS VACCINE TO AN INDIVIDUAL MAY NOT BE REQUIRED BY ANY PROVISION OF LAW IF, IN THE PHYSICIAN'S MEDICAL JUDGMENT:

(1) THE CIRCUMSTANCES SPECIFIED UNDER SUBSECTION (A)(1) OR (2) OF THIS SECTION ARE PRESENT; OR

(2) --THE--POTENTIAL--RECIPIENT--IS--IN--ONE--OF--THE CATEGORIES SPECIFIED UNDER SUBSECTION (A)(3) OF THIS SECTION; AND

(2) TAKING INTO ACCOUNT THE INFORMATION SPECIFIED UNDER SUBSECTION (A)(3) OF THIS SECTION AS WELL AS ALL OTHER RELEVANT INFORMATION, AND THE RISK TO THE POTENTIAL RECIPIENT OUTWEIGHS THE BENEFITS BOTH TO THE POTENTIAL RECIPIENT AND TO THE PUBLIC IN ADMINISTERING THE VACCINE.

(C) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT ANY EMERGENCY AUTHORITY OF THE SECRETARY UNDER ANY OTHER PROVISION OF LAW TO PROTECT THE PUBLIC HEALTH.

Article - Education

7-402.

2964

LAWS OF MARYLAND

Ch. 578

(a) (3) ANY REQUIREMENT FOR THE ADMINISTRATION OF PERTUSSIS VACCINE SHALL BE CONSISTENT WITH § 18-332(B) OF THE HEALTH - GENERAL ARTICLE.

~~SECTION 2. --AND BE IT FURTHER ENACTED, That § 18-329(a) of the Health - General Article, as enacted by this Act, become effective on January 1, 1985.~~

~~SECTION 3. --AND BE IT FURTHER ENACTED, That the remainder of this Act shall take effect July 1, 1984.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 1985, and that all guidelines authorized or required to be promulgated under Sections 18-328 through 18-332 of the Health - General Article, as enacted by this Act, shall be promulgated no later than January 1, 1985.

Approved May 29, 1984.

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#### CHAPTER 579

(Senate Bill 939)

AN ACT concerning

#### Maryland Real Estate Time-Sharing Act

FOR the purpose of regulating real estate time-share development in the State; providing for the creation, sale, lease, management, and termination of time-share interests; providing for registration recordation of certain time-share documents in the land records of certain counties; providing for registration of time-share developers with the Real Estate Commission and imposing certain bonding requirements; prohibiting certain advertising and promotion practices; requiring certain developers to prepare public offering statements describing time-share projects and providing for regulation of the statements by the Secretary of State; providing certain consumer protections to purchasers of time-share interests including sales contract cancellation periods, disclosure of certain information, and certain warranties; requiring disclosure of certain information about time-share exchange programs; defining certain terms; and generally relating to time-share interests in real estate.

BY adding to

Article - Real Property

Massachusetts  
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ANNOTATED LAWS OF MASSACHUSETTS  
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\*\*\* Current through Acts 196 of the 2013 Legislative Session \*\*\*

PART I ADMINISTRATION OF THE GOVERNMENT  
TITLE XII EDUCATION  
Chapter 76 School Attendance

[GO TO MASSACHUSETTS CODE ARCHIVE DIRECTORY](#)

ALM GL ch. 76, § 15 (2013)

**§ 15.** Vaccination and Immunization Required; Exceptions.

No child shall, except as hereinafter provided, be admitted to school except upon presentation of a physician's certificate that the child has been successfully immunized against diphtheria, pertussis, tetanus, measles and poliomyelitis and such other communicable diseases as may be specified from time to time by the department of public health.

A child shall be admitted to school upon certification by a physician that he has personally examined such child and that in his opinion the physical condition of the child is such that his health would be endangered by such vaccination or by any of such immunizations. Such certification shall be submitted at the beginning of each school year to the physician in charge of the school health program. If the physician in charge of the school health program does not agree with the opinion of the child's physician, the matter shall be referred to the department of public health, whose decision will be final.

In the absence of an emergency or epidemic of disease declared by the department of public health, no child whose parent or guardian states in writing that vaccination or immunization conflicts with his sincere religious beliefs shall be required to present said physician's certificate in order to be admitted to school.



**HISTORY:** 1855, 414, § 2; GS 1860, 41, § 8; PS 1882, 47, § 9; 1884, 64; 1885, 198; 1894, 498, §§ 9, 10; 1898, 496, § 11; RL 1902, 44, § 6; 1906, 371; 1907, 215; 1918, 117; 1938, 265, § 5; 1967, 590; 1971, 285; 1972, 161.

**NOTES:** Editorial Note

The 1967 amendment rewrote the section adding the requirements as to immunization against certain diseases, and providing exemption under certain circumstances from the necessity for vaccination or immunization on account of the physical condition of the child, or because of the religious beliefs of its parents or guardian.

The 1971 amendment rewrote the third paragraph to eliminate the requirement that the parent or guardian of a child for whom exemption is sought present an affidavit of an official of a church or denomination.

The 1972 amendment eliminated, from the first paragraph, the requirement for a smallpox vaccination.

Cross References

Exemptions from vaccination, ALM GL c 111 § 183.

Federal Aspects

Communicable disease control and vaccination assistance grants, 42 USCS § 247b.

Code of Massachusetts Regulations

Immunization of children against rubella and mumps before admission to school, 105 CMR 220.101 et seq.

Jurisprudence

68 Am Jur 2d, Schools §§ 255, 256, 297-301.

Annotations

Relief against school board's "busing" plan to promote desegregation. 50 ALR3d 1089.

Power of Court or Other Public Agency to Order Vaccination over Parental Religious Objection. 94 ALR5th 613.

## Law Reviews

Health and Safety: Chapter 821: Chapter 821: Mandated Vaccinations Bring Informed Consent. 44 McGeorge L. Rev. 719 (2013).

Weinrib, Kinship Care Reform: A Proposal for Consent Legislation in Massachusetts. 87 Mass L Rev 23 (Summer 2002).

Do Belief Exemptions to Compulsory Vaccination Programs Violate the Fourteenth Amendment? 42 U. Mem. L. Rev. 73 (Fall, 2011).

LexisNexis 50 State Surveys, Legislation & Regulations

## Childhood & Student Vaccinations

### CASE NOTES

Child holding certificate as described in statute lawfully may be suspended from attendance at public school until crisis has passed. Hammond v. Hyde Park (1907) 195 Mass 29, 80 NE 650, 1907 Mass LEXIS 1242.

Exemption when physician's certificate is furnished does not cover absolutely entire period of child's attendance and certificate is limited to period during which child's physical condition is such that, in physician's opinion, he is unfit subject for vaccination. Spofford v. Carlton (1921) 238 Mass 528, 131 NE 314, 1921 Mass LEXIS 1046.

It is no defense to complaint charging that defendant failed to send his children to public school, that defendant, because of his religious belief and conscientious scruples concerning vaccination, had refused to have his children vaccinated and knew that they therefore would not be permitted to attend school. Commonwealth v. Green (1929) 268 Mass 585, 168 NE 101, 1929 Mass LEXIS 1414.

It was contended that words "vaccinated" and "unvaccinated" do not convey the idea of inoculation against smallpox as distinguished from other diseases, and therefore that this section is too vague for enforcement; held that in our statutes, and even in common speech, "vaccinated," without explanation or qualification, meant in 1855 and still means, inoculated against smallpox, and language is not vague, but clear. Commonwealth v. Childs (1938) 299 Mass 367, 12 NE2d 814, 1938 Mass LEXIS 784.

Third paragraph of this section which affords exemption from vaccination to persons who object to vaccination on religious grounds and who are members of recognized church or religious denomination but does not afford such exemption to persons who object to vaccination on religious grounds but who are not members of recognized church or religious denomination is unconstitutional as being in violation of Massachusetts Constitution, Declaration of Rights, Art 2 (see also Art 18 § 1 of the Amendments as appearing in Art 46) and of Federal Constitution because it gives a preference to one group whose objections are based on religious belief and it discriminates against another group whose objections are also based on religious belief; first two paragraphs of the section, since they are independent of third paragraph and were in existence in substance when third paragraph was adopted in 1967, are unaffected by decision as to third paragraph. Dalli v. Board of Education (1971) 358 Mass 753, 267 NE2d 219, 1971 Mass LEXIS 915.

Certificate for exemption from vaccination need not be so worded that it shows that it is opinion of examining and signing physician that cause stated is sufficient; however, it must be so worded that it states, as opinion of physician who signs certificate, that child is not fit subject for vaccination. 4 Op AG 625.

Question whether in given case child has been properly vaccinated is question of fact, as to which proper authorities may require proof. 7 Op AG 370.

1967 ; 1967, 590 (Approved September 5, 1967)

## ACTS, 1967. — CHAPS. 589, 590.

435

the county for the purpose of advertising such advantages, or for the processing of inquiries resulting from such promotional activities. In carrying out the provisions of this act the commissioners may designate an agent or agents to act for them; provided, that all bills incurred shall be accompanied by proper vouchers and shall be paid by the county treasurer only on warrants approved by the county commissioners or a majority of them.

SECTION 2. Chapter one hundred and five of the acts of nineteen hundred and thirty-nine, as most recently amended by chapter three hundred and thirty-three of the acts of nineteen hundred and fifty-seven, is hereby repealed.

*Approved September 5, 1967.*

**Chap. 589.** AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF FRANKLIN COUNTY TO EXPEND MONEY FOR THE PURPOSE OF PROMOTING THE AGRICULTURAL AND INDUSTRIAL ADVANTAGES OF SAID COUNTY.

*Be it enacted, etc., as follows:*

Section 1 of chapter 30 of the acts of 1966 is hereby amended by inserting after the word "recreational", in line 2, the words: — , agricultural and industrial.

*Approved September 5, 1967.*

**Chap. 590.** AN ACT RELATIVE TO THE VACCINATION AND IMMUNIZATION OF SCHOOL CHILDREN.

*Be it enacted, etc., as follows:*

Chapter 76 of the General Laws is hereby amended by striking out section 15, as amended by section 5 of chapter 265 of the acts of 1938, and inserting in place thereof the following section: —

Section 15. No child shall, except as hereinafter provided, be admitted to school except upon presentation of a physician's certificate that the child has been successfully vaccinated against smallpox and immunized against diphtheria, pertussis, tetanus, measles and poliomyelitis and such other communicable diseases as may be specified from time to time by the department of public health.

A child shall be admitted to school upon certification by a physician that he has personally examined such child and that in his opinion the physical condition of the child is such that his health would be endangered by such vaccination or by any of such immunizations. Such certification shall be submitted at the beginning of each school year to the physician in charge of the school health program. If the physician in charge of the school health program does not agree with the opinion of the child's physician, the matter shall be referred to the department of public health, whose decision will be final.

In the absence of an emergency or epidemic of disease declared by the department of public health, no child whose parent or guardian objects in writing to vaccination or immunization upon the ground that it conflicts with the tenets and practice of a recognized church or religious denomination of which he is an adherent or member shall be required to present said physician's certificate in order to be admitted to school, but may present, in lieu thereof, an affidavit signed by an official of such church or religious denomination that the parent or

guardian of such child is an adherent or member in good standing of such church or religious denomination, and that such parent or guardian objects on religious grounds to vaccination and immunization.

*Approved September 5, 1967.*

**Chap. 591.** AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF THE COUNTY OF PLYMOUTH TO PARTICIPATE IN CO-OPERATIVE SHORE PROTECTION AND REPAIR OF DAMAGE IN CERTAIN TOWNS IN SAID COUNTY AND TO BORROW MONEY FOR SAID PURPOSE.

*Be it enacted, etc., as follows:*

SECTION 1. The county commissioners of the county of Plymouth are hereby authorized to participate in the work of shore protection and repair of damage done by storms in certain towns in said county, and for such purposes may pay such sums as may be necessary, not to exceed twenty-five per cent of the cost of such work, in co-operation with the commonwealth and with the towns in which such work is done, or in co-operation with the commonwealth and said towns and the federal government.

SECTION 2. For the purposes aforesaid, the treasurer of said county, with the approval of the county commissioners, may borrow upon the credit of the county such sums as may be necessary not exceeding, in the aggregate, one hundred and fifty thousand dollars, and may issue bonds or notes of the county therefor, which shall bear on their face the words, Plymouth County Shore Protection Loan, Act of 1967. Each authorized issue shall constitute a separate loan, and such loans shall be payable not more than five years from their dates. The bonds or notes shall be signed by the county treasurer and countersigned by a majority of the county commissioners. The county may sell the said securities at public or private sale, upon such terms and conditions as the county commissioners may deem proper, but not for less than their par value. Indebtedness incurred hereunder shall, except as herein provided, be subject to chapter thirty-five of the General Laws.

SECTION 3. The county treasurer of said county, with the approval of the county commissioners, may issue temporary notes of the county, payable in not more than one year from their dates in anticipation of the serial bonds or notes under this act, but the time within which such serial bonds or notes shall become due and payable shall not, by reason of such temporary notes, be extended beyond the time fixed by this act. Any notes issued in anticipation of the serial bonds or notes shall be paid from the proceeds thereof.

SECTION 4. In the event that any work authorized by section one is to be performed by the commonwealth or by a town, the money to be contributed by the county of Plymouth shall be paid into the state treasury or the town treasury from time to time as requested by the state department of public works or by the department, board or officer of the town having similar powers and duties, as the case may be, but no such work shall be commenced until the contribution or contributions so requested have been so paid, and no money so contributed shall be used for any other purpose.

SECTION 5. This act shall take full effect upon its acceptance during the current year by the county commissioners of the county of Plymouth, but not otherwise.

*Approved September 5, 1967.*

1971 1971, 285; (Approved May 18, 1971)

ACTS, 1971. — CHAPS. 285, 286, 287. 143

John E. McIntee for his period of service with the North Easton Village District in the years nineteen hundred and forty-six and nineteen hundred and forty-seven, provided that he shall pay into the annuity savings fund of said system, an amount equal to five per cent of the regular compensation received during such period of service plus regular interest computed to the date of such deposit.

*Approved May 18, 1971.*

**Chap. 285.** AN ACT FURTHER REGULATING THE EXEMPTION OF SCHOOL CHILDREN FROM VACCINATION OR IMMUNIZATION BECAUSE OF RELIGIOUS BELIEFS.

*Be it enacted etc., as follows:*

Section 15 of chapter 76 of the General Laws, as most recently amended by chapter 590 of the acts of 1967, is hereby further amended by striking out the third paragraph and inserting in place thereof the following paragraph:—

In the absence of an emergency or epidemic of disease declared by the department of public health, no child whose parent or guardian states in writing that vaccination or immunization conflicts with his sincere religious beliefs shall be required to present said physician's certificate in order to be admitted to school.

*Approved May 18, 1971.*

**Chap. 286.** AN ACT AUTHORIZING THE ASSESSMENT OF TAXES UPON REAL PROPERTY OF PERSONS UNKNOWN.

*Be it enacted etc., as follows:*

Section 11 of chapter 59 of the General Laws is hereby amended by adding the following paragraph:—

Whenever the commissioner deems it proper he may, in writing, authorize the assessment of taxes upon real property to persons unknown, provided that the assessors certify to the commissioner that they cannot by reasonable diligence ascertain the name of the person appearing of record.

*Approved May 18, 1971.*

**Chap. 287.** AN ACT PROVIDING THAT COMPENSATION PAID TO POLICE OFFICERS AND FIRE FIGHTERS FOR HOLIDAYS SHALL BE INCLUDED AS REGULAR COMPENSATION FOR RETIREMENT PURPOSES.

*Be it enacted, etc., as follows:*

The paragraph defining "Regular Compensation" in section 1 of chapter 32 of the General Laws is hereby amended by striking out the sentence inserted by chapter 84 of the acts of 1969 and inserting in place thereof the following sentence:—In the case of police officers and fire fighters, money paid for holidays shall be regarded as regular compensation rather than as overtime and shall be included in the salary on which deductions are to be paid to the annuity savings fund.

*Approved May 18, 1971.*

1972 1972, 161. (Approved April 15, 1972)

ACTS, 1972. — CHAPS. 160, 161, 162.

77

**Chap. 160.** AN ACT ESTABLISHING THE DAVID I. WALSH-LEVERETT SALTONSTALL VISITING LECTURESHIP PROGRAM AT THE UNIVERSITY OF MASSACHUSETTS.

*Be it enacted, etc., as follows:*

SECTION 1. Chapter 75 of the General Laws is hereby amended by inserting after section 32A the following section:—

*Section 32B.* There is hereby established the David I. Walsh-Leverett Saltonstall visiting lectureship program in practical politics and public affairs at the university. For such program the university may annually expend such sums, not to exceed twenty-five thousand dollars, as may be appropriated therefor.

The president of the university and the board of trustees shall select as such visiting lecturers individuals who are both learned and experienced in practical politics and public affairs and who possess the ability to communicate such knowledge to university students.

The duties of the visiting lecturers shall be decided upon by the president of the university and the chairmen of the departments of political science and politics.

The visiting lecturers shall be appointed for a period not to exceed one year, and they may be assigned to the university branch at Boston or Amherst for a full year, or may be assigned to either branch for one semester or less.

SECTION 2. Chapter six hundred and seven of the acts of nineteen hundred and sixty-seven is hereby repealed.

*Approved April 13, 1972.*

**Chap. 161.** AN ACT ELIMINATING THE REQUIREMENT OF A SMALLPOX VACCINATION FOR SCHOOL ATTENDANCE.

*Be it enacted, etc., as follows:*

Section 15 of chapter 76 of the General Laws is hereby amended by striking out the first paragraph, as appearing in chapter 590 of the acts of 1967, and inserting in place thereof the following paragraph:—

No child shall, except as hereinafter provided, be admitted to school except upon presentation of a physician's certificate that the child has been successfully immunized against diphtheria, pertussis, tetanus, measles and poliomyelitis and such other communicable diseases as may be specified from time to time by the department of public health.

*Approved April 13, 1972.*

**Chap. 162.** AN ACT FURTHER REGULATING THE LICENSING OF INSURANCE AGENTS AND BROKERS.

*Be it enacted, etc., as follows:*

SECTION 1. Section 163A of chapter 175 of the General Laws, inserted by section 4 of chapter 908 of the acts of 1971, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

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Chapter 333 Health  
Act 368 of 1978 Public Health Code  
Article 9 Supportive Personal Health Services  
Part 92 Immunization

[Go to the Michigan Code Archive Directory](#)

**MCLS § 333.9215** (2013)

**§ 333.9215. Exemptions.**

Sec. 9215. (1) A child is exempt from the requirements of this part as to a specific immunization for any period of time as to which a physician certifies that a specific immunization is or may be detrimental to the child's health or is not appropriate.

(2) A child is exempt from this part if a parent, guardian, or person in loco parentis of the child presents a written statement to the administrator of the child's school or operator of the group program to the effect that the requirements of this part cannot be met because of religious convictions or other objection to immunization.

**HISTORY:** Pub Acts 1978, No. 368, Art. 9, Part 92, § 9215, imd eff July 25, 1978, by § 25211(1) eff September 30, 1978.

**NOTES:**

Prior codification:

MSA § 14.15(9215)

LexisNexis 50 State Surveys, Legislation & Regulations  
Childhood & Student Vaccinations

ALR notes:



Power of court or other public agency to order medical treatment over parental religious objections for child whose life is not immediately endangered, 21 ALR5th 248

Michigan Digest references:  
Health § 17

1978 Pub Acts 1978, No. 368, Art. 9, Part 92, § 9215, (approved July 25, 1978)  
(Effective September 25, 1978)

PUBLIC ACTS 1978—No. 368

865

[No. 368]

AN ACT to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to provide for penalties and remedies; and to repeal certain acts and parts of acts.

*The People of the State of Michigan enact:*

ARTICLE 1. PRELIMINARY PROVISIONS  
PART 11. SHORT TITLE, GENERAL DEFINITIONS,  
AND CONSTRUCTION

**333.1101 Short title. [M.S.A. 14.15(1101)]**

Sec. 1101. This act shall be known and may be cited as the "public health code".

**333.1103 Meanings of words and phrases. [M.S.A. 14.15(1103)]**

Sec. 1103. For purposes of this code, the words and phrases defined in sections 1104 to 1108 have the meanings ascribed to them in those sections. These definitions, unless the context requires otherwise, apply to use of the defined terms in this code. Other definitions applicable to specific articles, parts, or sections of the code are found in those articles, parts, or sections.

**333.1104 Definitions; A to G. [M.S.A. 14.15(1104)]**

Sec. 1104. (1) "Administrative procedures act of 1969" means Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, or a successor act.

(2) "Adult" means an individual 18 years of age or older.

(3) "Code" means the public health code.

(4) "Department", except as provided in article 15, means the state department of public health.

(5) "Director", except as provided in article 15, means the state director of public health.

(6) "Governmental entity" means a government, governmental subdivision or agency, or public corporation.

**333.1105 Definitions; I to M. [M.S.A. 14.15(1105)]**

Sec. 1105. (1) "Individual" means a natural person.

(2) "Local health department" means:

(a) A county health department of a single county provided pursuant to section 2413 and its board of health, if any.

has not filed an exemption under section 9215 within 4 months after entrance shall be excluded from school attendance.

**333.9211 Preschool aged child registered in program of group residence, care, or camping; certificate of immunization or statement of exemption; minimum dose of immunizing agent; updated certificate; report of immunization status. [M.S.A. 14.15(9211)]**

Sec. 9211. (1) A parent, guardian, or person in loco parentis applying to have a preschool aged child registered in a program of group residence, care, or camping shall present to the operator of the program at the time of registration or not later than the first day of the program a certificate of immunization or a statement of exemption under section 9215. The operator of the group program shall not permit a child to attend the group activity unless a minimum of 1 dose of an immunizing agent against each of the diseases specified by the department has been received and certified to by a health professional or local health department. A parent, guardian, or person in loco parentis of a child registered with only these minimum doses of an immunizing agent and continuing enrollment in the group program shall present an updated certificate of immunization within 4 months after initial attendance showing that the immunizations have been completed as prescribed by the department, if the child remains in the program.

(2) Upon request by the department or local health department, a program operator shall report to the state and local health departments the immunization status of each child accepted.

**333.9215 Exemptions. [M.S.A. 14.15(9215)]**

Sec. 9215. (1) A child is exempt from the requirements of this part as to a specific immunization for any period of time as to which a physician certifies that a specific immunization is or may be detrimental to the child's health or is not appropriate.

(2) A child is exempt from this part if a parent, guardian, or person in loco parentis of the child presents a written statement to the administrator of the child's school or operator of the group program to the effect that the requirements of this part cannot be met because of religious convictions or other objection to immunization.

**333.9221 Enforcement; cooperation. [M.S.A. 14.15(9221)]**

Sec. 9221. The departments of education and social services shall cooperate with the department in the administration and enforcement of this part.

**333.9227 Rules. [M.S.A. 14.15(9227)]**

Sec. 9227. The department shall promulgate rules to implement this part, including specification of the diseases against which children shall be immunized, age periods for immunizations, the minimum ages at which immunization may be commenced, the minimum number of doses required during a specified time period, and minimum levels of immunization for children in school.

**333.9229 Violation as misdemeanor. [M.S.A. 14.15(9229)]**

Sec. 9229. A person who violates this part or a rule promulgated under this part is guilty of a misdemeanor.

## PART 93. HEARING AND VISION

**333.9301 Free hearing and vision testing and screening programs; publicity. [M.S.A. 14.15(9301)]**

Sec. 9301. A local health department shall conduct periodic hearing and vision testing and screening programs without charge for children residing in its

## PART 252. SAVINGS CLAUSES AND EFFECTIVE DATES

**333.25201 Continuation of statutory provisions and rules; submission of proposed rules to public hearing; nomination and appointment of agency members. [M.S.A. 14.15(25201)]**

Sec. 25201. (1) Where a section of this code authorizes or directs the promulgation of rules, including rules fixing fees, but rules dealing with the subject matter do not exist when the section takes effect, a statutory provision covering the matter, which is repealed by this code, shall nevertheless continue in effect until rules covering the matter take effect or for 3 years, whichever is sooner.

(2) Rules in effect on the effective date of this code shall continue to the extent that they do not conflict with this code, and shall be considered as rules promulgated under this code.

(3) An agency which is required to promulgate rules under this code shall submit the proposed rules to public hearing within 2 years after the effective date of this code.

(4) Rules and regulations adopted by a district or county board of health which are in effect on the effective date prescribed in section 25211 continue to the extent that they do not conflict with this code, and are considered as local health department regulations promulgated under this code.

(5) On the date this code is enacted into law procedures for the nomination and appointment of members of agencies created or continued by this code may be commenced, but the appointments shall not take effect before the effective date of the section providing for the appointment.

**333.25205 Section 8.4a inapplicable to code; action or other proceeding not abated. [M.S.A. 14.15(25205)]**

Sec. 25205. Section 4a of chapter 1 of the Revised Statutes of 1846, being section 8.4a of the Michigan Compiled Laws, is applicable to this code. In addition, an action or other proceeding lawfully commenced by or against an agency or an officer of this state, in his or her official capacity in relation to the discharge of official duties, including a proceeding against a licensee, registrant, or permittee, does not abate because the agency or officer is superseded by another agency or office created by this code. The court may allow the action or other proceeding to be maintained by or against the successor of the agency or officer.

**333.25211 Effective date of code; exceptions; promulgation of rules authorized by code. [M.S.A. 14.15(25211)]**

Sec. 25211. (1) Except as specific provisions of this code may provide otherwise, this code takes effect on September 30, 1978.

(2) On the date this code is enacted into law, procedures and actions required for the rule-making process pursuant to the administrative procedures act of 1969 may be commenced, but the rules authorized by this code shall not be promulgated until on or after the effective date set forth in subsection (1) or the effective date applicable to the section of this code under which the rules are promulgated.

This act is ordered to take immediate effect.  
Approved July 25, 1978.

Previous act was made immediately effective by  
§ 25211(1) eff September 30, 1978.

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Minnesota Statutes  
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\*\*\* This document is current through Chapter 144, Regular Session \*\*\*

\*\*\* Annotations are current through January 13, 2014 \*\*\*

EDUCATION CODE: PREKINDERGARTEN -- GRADE 12  
CHAPTER 121A. STUDENT RIGHTS, RESPONSIBILITIES, AND BEHAVIOR  
STUDENT HEALTH AND SAFETY

[GO TO MINNESOTA STATUTES ARCHIVE DIRECTORY](#)

**Minn. Stat. § 121A.15** (2013)

**121A.15** HEALTH STANDARDS; IMMUNIZATIONS; SCHOOL CHILDREN

Subdivision 1. School and child care facility immunization requirements. -- Except as provided in subdivisions 3, 4, and 10, no person over two months old may be allowed to enroll or remain enrolled in any elementary or secondary school or child care facility in this state until the person has submitted to the administrator or other person having general control and supervision of the school or child care facility, one of the following statements:

(1) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunization, consistent with medically acceptable standards, against measles after having attained the age of 12 months, rubella, diphtheria, tetanus, pertussis, polio, mumps, haemophilus influenza type b, and hepatitis B; or

(2) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunizations, consistent with medically acceptable standards, against measles after having attained the

age of 12 months, rubella, mumps, and haemophilus influenza type b and that the person has commenced a schedule of immunizations for diphtheria, tetanus, pertussis, polio, and hepatitis B and which indicates the month and year of each immunization received.

Subd. 2. Schedule of immunizations. --No person who has commenced a treatment schedule of immunization pursuant to subdivision 1, clause (2), may remain enrolled in any child care facility, elementary, or secondary school in this state after 18 months of enrollment unless there is submitted to the administrator, or other person having general control and supervision of the school or child care facility, a statement from a physician or a public clinic which provides immunizations that the person has completed the primary schedule of immunizations for diphtheria, tetanus, pertussis, polio, and hepatitis B. The statement must include the month and year of each additional immunization received. For a child less than seven years of age, a primary schedule of immunizations shall consist of four doses of vaccine for diphtheria, tetanus, and pertussis and three doses of vaccine for poliomyelitis and hepatitis B. For a child seven years of age or older, a primary schedule of immunizations shall consist of three doses of vaccine for diphtheria, tetanus, polio, and hepatitis B.

Subd. 3. Exemptions from immunizations.

(a) If a person is at least seven years old and has not been immunized against pertussis, the person must not be required to be immunized against pertussis.

(b) If a person is at least 18 years old and has not completed a series of immunizations against poliomyelitis, the person must not be required to be immunized against poliomyelitis.

(c) If a statement, signed by a physician, is submitted to the administrator or other person having general control and supervision of the school or child care facility stating that an immunization is contraindicated for medical reasons or that laboratory confirmation of the presence of adequate immunity exists, the immunization specified in the statement need not be required.

(d) If a notarized statement signed by the minor child's parent or guardian or by the emancipated person is submitted to the administrator or other person having general control and supervision of the school or child care facility stating that the person has not been immunized as prescribed in subdivision 1 because of the conscientiously held beliefs of the parent or guardian of the minor child or of the emancipated person, the immunizations specified in the statement shall not be required. This statement must also be forwarded to the commissioner of the Department of Health.

(e) If the person is under 15 months, the person is not required to be immunized against measles, rubella, or mumps.

(f) If a person is at least five years old and has not been immunized against haemophilus influenza type b, the person is not required to be immunized against haemophilus influenza type b.

(g) If a person who is not a Minnesota resident enrolls in a Minnesota school online learning course or program that delivers instruction to the person only by computer and does not provide any teacher or instructor contact time or require classroom attendance, the person is not subject to the immunization, statement, and other requirements of this section.

Subd. 3a. Disclosures required.

(a) This paragraph applies to any written information about immunization requirements for enrollment in a school or child care facility that:

(1) is provided to a person to be immunized or enrolling or enrolled in a school or child care facility, or to the person's parent or guardian if the person is under 18 years of age and not emancipated; and

(2) is provided by the Department of Health; the Department of Education; the Department of Human Services; an immunization provider; or a school or child care facility.

Such written information must describe the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d). The information on exemptions from immunizations provided according to this paragraph must be in a font size at least equal to the font size of the immunization requirements, in the same font style as the immunization requirements, and on the same page of the written document as the immunization requirements.

(b) Before immunizing a person, an immunization provider must provide the person, or the person's parent or guardian if the person is under 18 years of age and not emancipated, with the following information in writing:

(1) a list of the immunizations required for enrollment in a school or child care facility;

(2) a description of the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d);

(3) a list of additional immunizations currently recommended by the commissioner; and

(4) in accordance with federal law, a copy of the vaccine information sheet from the federal Department of Health and Human Services that lists possible adverse reactions to the immunization to be provided.



(c) The commissioner will continue the educational campaign to providers and hospitals on vaccine safety including, but not limited to, information on the vaccine adverse events reporting system (VAERS), the federal vaccine information statements (VIS), and medical precautions and contraindications to immunizations.

(d) The commissioner will encourage providers to provide the vaccine information statements at multiple visits and in anticipation of subsequent immunizations.

(e) The commissioner will encourage providers to use existing screening for immunization precautions and contraindication materials and make proper use of the vaccine adverse events reporting system (VAERS).

(f) In consultation with groups and people identified in subdivision 12, paragraph (a), clause (1), the commissioner will continue to develop and make available patient education materials on immunizations including, but not limited to, contraindications and precautions regarding vaccines.

(g) The commissioner will encourage health care providers to use thimerosal-free vaccines when available.

#### Subd. 4. Substitute immunization statement.

(a) A person who is enrolling or enrolled in an elementary or secondary school or child care facility may substitute a statement from the emancipated person or a parent or guardian if the person is a minor child in lieu of the statement from a physician or public clinic which provides immunizations. If the statement is from a parent or guardian or emancipated person, the statement must indicate the month and year of each immunization given.

(b) In order for the statement to be acceptable for a person who is enrolling in an elementary school and who is six years of age or younger, it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; no less than four doses of vaccine for poliomyelitis, unless the third dose was given after the fourth birthday, then three doses are minimum; no less than five doses of vaccine for diphtheria, tetanus, and pertussis, unless the fourth dose was given after the fourth birthday, then four doses are minimum; and no less than three doses of vaccine for hepatitis B.

(c) In order for the statement to be consistent with subdivision 10 and acceptable for a person who is enrolling in an elementary or secondary school and is age seven through age 19, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and

rubella given separately or in combination, and no less than three doses of vaccine for poliomyelitis, diphtheria, tetanus, and hepatitis B.

(d) In order for the statement to be acceptable for a person who is enrolling in a secondary school, and who was born after 1956 and is 20 years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than one dose of vaccine for diphtheria and tetanus within the preceding ten years.

(e) In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is at least 15 months old but who has not reached five years of age, it must indicate that the following were given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; no less than one dose of vaccine for haemophilus influenza type b; no less than four doses of vaccine for diphtheria, tetanus, and pertussis; and no less than three doses of vaccine for poliomyelitis.

(f) In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is five or six years of age, it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; no less than four doses of vaccine for diphtheria, tetanus, and pertussis; and no less than three doses of vaccine for poliomyelitis.

(g) In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is seven years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination and consistent with subdivision 10, and no less than three doses of vaccine for poliomyelitis, diphtheria, and tetanus.

(h) The commissioner of health, on finding that any of the above requirements are not necessary to protect the public's health, may suspend for one year that requirement.

Subd. 5. Transfer of immunization statements. --If a person transfers from one elementary or secondary school to another, the school board of a public school district or the administrator of a nonpublic school may allow the person up to a maximum of 30 days to submit one or more of the statements as specified in subdivision 1 or 3, during which time the person may enroll in and attend the school. If a person enrolls in a child care facility in which at least 75 percent of children in the facility participate on a onetime only or occasional basis to a maximum of 45 hours per child, per month, or is placed in a facility by a crisis nursery, the person shall be exempt from all requirements of this section for up to five consecutive days, starting from the first day of attendance.

Subd. 6. [Repealed, 1Sp2001 c 9 art 1 s 62]

Subd. 7. File on immunization records. --Each school or child care facility shall maintain on file immunization records for all persons in attendance that contain the information required by subdivisions 1, 2, and 3. The school shall maintain the records for at least five years after the person attains the age of majority. The Department of Health and the board of health, as defined in section 145A.02, subdivision 2, in whose jurisdiction the school or child care facility is located, shall have access to the files maintained pursuant to this subdivision. When a person transfers to another elementary or secondary school or child care facility, the administrator or other person having general control and supervision of the school or child care facility shall assist the person's parent or guardian in the transfer of the immunization file to the person's new school or child care facility within 30 days of the transfer. Upon the request of a public or private postsecondary educational institution, as defined in section 135A.14, the administrator or other person having general control or supervision of a school shall assist in the transfer of a student's immunization file to the postsecondary institution.

Subd. 8. Report. --The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner on all persons enrolled in the school. The superintendent of each district shall file a report with the commissioner for all persons within the district receiving instruction in a home school in compliance with sections 120A.22 and 120A.24. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, 4, and 12 to the superintendent of the district in which the person resides by October 1 of the first year of their homeschooling in Minnesota and the grade 7 year. The school report must be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local districts by the commissioner of health. The school report must state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report must be filed with the commissioner of education within 60 days of the commencement of each new school term. Upon request, a district must be given a 60-day extension for filing the school report. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health. The child care facility report must state the number of persons enrolled in the facility, the number of persons with

no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report must be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to sections 125A.03 and 125A.06, nor for child care facilities in which at least 75 percent of children in the facility participate on a onetime only or occasional basis to a maximum of 45 hours per child, per month.

Subd. 9. Definitions. --As used in this section the following terms have the meanings given them.

(a) "Elementary or secondary school" includes any public school as defined in section 120A.05, subdivisions 9, 11, 13, and 17, or nonpublic school, church, or religious organization, or home school in which a child is provided instruction in compliance with sections 120A.22 and 120A.24.

(b) "Person enrolled in any elementary or secondary school" means a person born after 1956 and enrolled in grades kindergarten through 12, and a child with a disability receiving special instruction and services as required in sections 125A.03 to 125A.24 and 125A.65, excluding a child being provided services at the home or bedside of the child or in other states.

(c) "Child care facility" includes those child care programs subject to licensure under chapter 245A, and Minnesota Rules, chapters 9502 and 9503.

(d) "Family child care" means child care for no more than ten children at one time of which no more than six are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

(e) "Group family child care" means child care for no more than 14 children at any one time. The total number of children includes all children of any caregiver when the children are present in the residence.

Subd. 10. Requirements for immunization statements.

(a) A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(b) A person who has received at least three doses of tetanus and diphtheria toxoids, with the most recent dose given after age six and before age 11, is not required to have additional immunization against diphtheria and tetanus until ten years have elapsed from the person's most recent dose of tetanus and diphtheria toxoid.

(c) The requirement for hepatitis B vaccination shall apply to persons enrolling in kindergarten beginning with the 2000-2001 school term.

(d) The requirement for hepatitis B vaccination shall apply to persons enrolling in grade 7 beginning with the 2001-2002 school term.

Subd. 11. Commissioner of human services; continued responsibilities. -- Nothing in this section relieves the commissioner of human services of the responsibility, under chapter 245A, to inspect and assure that statements required by this section are on file at child care programs subject to licensure.

Subd. 12. Modifications to schedule.

(a) The commissioner of health may adopt modifications to the immunization requirements of this section. A proposed modification made under this subdivision must be part of the current immunization recommendations of each of the following organizations: the United States Public Health Service's Advisory Committee on Immunization Practices, the American Academy of Family Physicians, and the American Academy of Pediatrics. In proposing a modification to the immunization schedule, the commissioner must:

(1) consult with (i) the commissioner of education; the commissioner of human services; the chancellor of the Minnesota State Colleges and Universities; and the president of the University of Minnesota; and (ii) the Minnesota Natural Health Coalition, Vaccine Awareness Minnesota, Biological Education for Autism Treatment (BEAT), the Minnesota Academy of Family Physicians, the American Academy of Pediatrics-Minnesota Chapter, and the Minnesota Nurses Association; and

(2) consider the following criteria: the epidemiology of the disease, the morbidity and mortality rates for the disease, the safety and efficacy of the vaccine, the cost of a vaccination program, the cost of enforcing vaccination requirements, and a cost-benefit analysis of the vaccination.

(b) Before a proposed modification may be adopted, the commissioner must notify the chairs of the house of representatives and senate committees with jurisdiction over health policy issues. If the chairs of the relevant standing committees determine a public hearing regarding the proposed modifications is in order, the hearing must be scheduled within 60 days of receiving notice from the

commissioner. If a hearing is scheduled, the commissioner may not adopt any proposed modifications until after the hearing is held.

(c) The commissioner shall comply with the requirements of chapter 14 regarding the adoption of any proposed modifications to the immunization schedule.

(d) In addition to the publication requirements of chapter 14, the commissioner of health must inform all immunization providers of any adopted modifications to the immunization schedule in a timely manner.

**HISTORY:** 1967 c 858 s 1,2; 1973 c 137 s 1-3; 1977 c 305 s 45; 1978 c 758 s 1; 1980 c 504 s 1; 1986 c 444; 1987 c 309 s 24; 1988 c 430 s 1-8; 1989 c 215 s 1-7; 1991 c 30 s 1-10; 1991 c 265 art 3 s 38; 1Sp1995 c 3 art 9 s 26; art 16 s 13; 1996 c 398 s 25; 1Sp1997 c 3 s 20-22; 1Sp1997 c 4 art 6 s 8-10; 1998 c 305 s 1-4; 1998 c 397 art 3 s 54-56,103; art 11 s 3; 1998 c 407 art 2 s 24; 1Sp2001 c 9 art 1 s 24,25; 2002 c 379 art 1 s 113; 2003 c 130 s 12; 2004 c 279 art 10 s 1,2; 1Sp2005 c 5 art 2 s 29; 2006 c 263 art 7 s 2; 2011 c 76 art 1 s 12,13; 1Sp2011 c 11 art 1 s 7

1978 1978 c 758 s 1 Approved April 5, 1978  
 Changed the religious exemption to "conscientiously held beliefs" of  
 parent/guardian.

Ch. 758

LAWS of MINNESOTA for 1978

927

spouse, parent, and child, regardless of age, of the farm owner or farm owners or executive officer and working therefor, or partners of a partnership owning a business or farm, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employee unless such ~~if the~~ owner, owners, partners or, family farm corporation or executive officer of a closely held corporation elect in writing not to ~~come~~ bring themselves, as executive officer, or a spouse, parent, or child under the provisions of this chapter, and the policy so states the election provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of such ~~the~~ owners, partners or, family farm corporations or closely held corporations to provide coverage for their employees, if any, required under this chapter.

Sec. 3. This act is effective the day after final enactment.

Approved April 5, 1978.

#### CHAPTER 758-H.F.No.1823

*An act relating to public health; requiring certain immunizations for students; amending Minnesota Statutes 1976, Section 123.70.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 123.70, is amended to read:

123.70 HEALTH STANDARDS; NEWLY ENROLLED STUDENTS. Subdivision 1. Prior to his initial enrollment in any school in this state every child shall submit to the principal or other person having general control and supervision of the school, one of the following statements:

(1) A statement signed by ~~from~~ a physician or a public clinic which provides immunizations stating that he the child has received immunization against red measles and, German measles or rubella by such means as is approved by the state board of health and that such immunization is currently effective, diphtheria, tetanus, pertussis, polio and mumps; or

(2) A statement from a physician or a public clinic which provides immunizations stating that the child has received immunizations against red measles, German measles or rubella, mumps and that the child has commenced a schedule of immunizations for diphtheria, tetanus, pertussis and polio;

(3) A statement signed by a physician stating that the physical condition of the child is such that immunization would seriously endanger his the life or health of the child ; or

~~(4)~~ (4) A notarized statement signed by his the child's parent or guardian stating that he the child has not been immunized as prescribed in clause (1) or (2) because he of

Changes or additions indicated by underline deletions by strikeout

~~the is being reared as an adherent of a religious denomination whose teachings are opposed to such immunizations or conscientiously held beliefs of the parent or guardian. This statement shall also be forwarded to the commissioner of the department of health.~~

(4) A request signed by his parent or guardian that the local health officer administer the prescribed immunization.

Subd. 2: The local school administrator shall, without delay, notify the local board of health, which shall provide, without delay, the immunization requested by this section to those children under subdivision 1, clause (4), at public expense. Subd. 2. No child who has commenced a treatment schedule of immunization pursuant to subdivision 1, clause (2), may remain enrolled in any school in this state after ten months of enrollment unless there is submitted to the principal, or other person having general control and supervision of the school, a statement from a physician or a public clinic which provides immunizations that the child has completed the schedule of immunizations for diphtheria, tetanus, pertussis, and polio.

Subd. 3. The phrase "any school" means any public, private or parochial elementary school, day care center or nursery school.

Subd. 4. The immunizations required by this section should be completed prior to the second birthday of the child.

Subd. 5. If the commissioner of health finds that an immunization required pursuant to section 123.70 is not necessary to protect the public's health, he may suspend for one year the requirement that children receive that immunization prior to enrolling in school.

Sec. 2. EFFECTIVE DATE. This act is effective the day following final enactment.

Approved April 5, 1978.

# CHAPTER 759-1LF.No.1825

[Coded]

*An act relating to examining and licensing boards; concerning public health; requiring information at the time of license application; allowing the collection of information at the time of license renewal; amending Minnesota Statutes 1976, Chapter 144, by adding sections.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Chapter 144, is amended by adding a section to read:

[144.051] PURPOSE. Subdivision 1. The legislature finds that accurate information pertaining to the numbers, distribution and characteristics of health-related manpower is  
Changes or additions indicated by underline deletions by strikethrough



1991 1991 c 30 s 1-10; (Effective July 1, 1991 except for Hep B [this is effective July 1, 1992])

53

LAWS of MINNESOTA for 1991

Ch. 30

Subdivision 1. ENTITLEMENT. An individual who became an appointed public officer prior to May 9, 1990, or an elected public officer who participates in the public employees retirement association defined benefit plan under Minnesota Statutes, chapter 353, may purchase service credit from the association for all or any portion of prior uncredited service as an elected public officer when the officer could have been, but was not, a member of the association on account of failure to exercise the membership option under Minnesota Statutes, section 353.01, subdivision 7.

## Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor April 15, 1991

Signed by the governor April 17, 1991, 2:57 p.m.

## CHAPTER 30—S.F.No. 583

*An act relating to health; clarifying requirements for vaccination of children for certain illnesses; amending Minnesota Statutes 1990, sections 123.70, subdivisions 1, 2, 3, 4, 5, 7, 8, 9, 10, and by adding a subdivision; and 151.37, by adding a subdivision.*

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 123.70, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivisions 3 and 4, no person over two months old may be allowed to enroll or remain enrolled in any elementary or secondary school or ~~day~~ child care facility in this state until the person has submitted to the administrator or other person having general control and supervision of the school or ~~day~~ child care facility, one of the following statements:

(1) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunization, consistent with medically acceptable standards and with the provisions of subdivision 10, against ~~red~~ measles after having attained the age of 12 months, rubella, diphtheria, tetanus, pertussis, polio, ~~and~~ mumps, and haemophilus influenza type b; or

(2) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunizations, consistent with medically acceptable standards and with the provisions of subdivision 10, against ~~red~~ measles after having attained the age of 12 months, rubella, ~~and~~ mumps, and haemophilus influenza type b and that the person has commenced a schedule of immunizations for diphtheria, tetanus, pertussis, and polio and which indicates the month and year of each immunization received.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 2. Minnesota Statutes 1990, section 123.70, subdivision 2, is amended to read:

Subd. 2. No person who has commenced a treatment schedule of immunization pursuant to subdivision 1, clause (2), may remain enrolled in any ~~day~~ child care facility, elementary, or secondary school in this state after 18 months of enrollment unless there is submitted to the administrator, or other person having general control and supervision of the school or ~~day~~ child care facility, a statement from a physician or a public clinic which provides immunizations that the person has completed the primary schedule of immunizations for diphtheria, tetanus, pertussis, and polio and in which the month and year of each additional immunization received is included. For a child less than seven years of age, a primary schedule of immunizations shall consist of four doses of vaccine for diphtheria, tetanus, and pertussis and three doses of vaccine for poliomyelitis. For a child seven years of age or older, a primary schedule of immunizations shall consist of three doses of vaccine for diphtheria, tetanus, and polio.

Sec. 3. Minnesota Statutes 1990, section 123.70, subdivision 3, is amended to read:

Subd. 3. (a) If a person is at least seven years old and has not been immunized against pertussis, the person must not be required to be immunized against pertussis.

(b) If a person is at least 18 years old and has not completed a series of immunizations against poliomyelitis, the person must not be required to be immunized against poliomyelitis.

(c) If a statement, signed by a physician, is submitted to the administrator or other person having general control and supervision of the school or ~~day~~ child care facility stating that an immunization is contraindicated for medical reasons or that laboratory confirmation of the presence of adequate immunity exists, the immunization specified in the statement need not be required.

(d) If a notarized statement signed by the minor child's parent or guardian or by the emancipated person is submitted to the administrator or other person having general control and supervision of the school or ~~day~~ child care facility stating that the person has not been immunized as prescribed in subdivision 1 because of the conscientiously held beliefs of the parent or guardian of the minor child or of the emancipated person, the immunizations specified in the statement shall not be required. This statement must also be forwarded to the commissioner of the department of health.

(e) If the person is under 15 months, the person is not required to be immunized against ~~red~~ measles, rubella, or mumps.

(f) If a person is at least five years old and has not been immunized against haemophilus influenza type b, the person is not required to be immunized against haemophilus influenza type b.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 4. Minnesota Statutes 1990, section 123.70, subdivision 4, is amended to read:

Subd. 4. A person who is enrolling or enrolled in an elementary or secondary school or ~~day~~ child care facility may substitute a statement from the emancipated person or a parent or guardian if the person is a minor child in lieu of the statement from a physician or public clinic which provides immunizations. If the statement is from a parent or guardian or emancipated person, the statement shall indicate the month and year of each immunization given. In order for the statement to be acceptable for a person who is enrolling in an elementary school and who is six years of age or younger, enrolling in an elementary school or day care facility; it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than four doses of vaccine for poliomyelitis, unless the third dose was given after the fourth birthday, then three doses are minimum, and no less than five doses of vaccine for diphtheria, tetanus, and pertussis, unless the fourth dose was given after the fourth birthday, then four are minimum. In order for the statement to be acceptable for a person who is enrolling in an elementary or secondary school and is seven years of age or older age seven through age 19, enrolling in an elementary or secondary school; the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination and consistent with subdivision 10, and no less than three doses of vaccine for poliomyelitis, diphtheria, and tetanus.

In order for the statement to be acceptable for a person who is enrolling in a secondary school, and who was born after 1956 and is 20 years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than one dose of vaccine for diphtheria and tetanus within the preceding ten years. In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is at least 15 months old but who has not reached five years of age, it must indicate that the following were given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; no less than one dose of vaccine for haemophilus influenza type b; no less than four doses of vaccine for diphtheria, tetanus, and pertussis; and no less than three doses of vaccine for poliomyelitis. In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is five or six years of age, it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, no less than four doses of vaccine for diphtheria, tetanus, and pertussis, and no less than three doses of vaccine for poliomyelitis. In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is seven years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination and consistent with subdivision 10, and no less than three doses of vaccine for poliomyelitis, diphtheria, and tetanus. The commissioner of health, on finding that any of the

above requirements are not necessary to protect the public's health, may suspend for one year that requirement.

Sec. 5. Minnesota Statutes 1990, section 123.70, subdivision 5, is amended to read:

Subd. 5. If a person transfers from one elementary or secondary school to another, the person shall be allowed 30 days to submit one or more of the statements as specified in subdivision 1 or 3, during which time the person may enroll in and attend the school. If a person enrolls in a child care facility in which at least 75 percent of children in the facility participate on a one-time only or occasional basis to a maximum of 45 hours per child, per month, the person shall be exempt from all requirements of this section for up to five consecutive days, starting from the first day of attendance.

Sec. 6. Minnesota Statutes 1990, section 123.70, subdivision 7, is amended to read:

Subd. 7. Each school or ~~day child~~ care facility shall maintain on file immunization records for all persons in attendance that contain the information required by subdivisions 1, 2, and 3. The department of health and the board of health, as defined in section 145A.02, subdivision 2, in whose jurisdiction the school or ~~day child~~ care facility is located, shall have access to the files maintained pursuant to this subdivision. When a person transfers to another elementary or secondary school or ~~day child~~ care facility, the administrator or other person having general control and supervision of the school or ~~day child~~ care facility shall assist the person's parent or guardian in the transfer of the immunization file to the person's new school or ~~day child~~ care facility within 30 days of the transfer. Upon the request of a public or private post-secondary educational institution, as defined in section 135A.14, the administrator or other person having general control or supervision of a school shall assist in the transfer of a student's immunization file to the post-secondary institution.

Sec. 7. Minnesota Statutes 1990, section 123.70, subdivision 8, is amended to read:

Subd. 8. The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner of education on all persons enrolled in the school, except that the superintendent of each school district shall file a report with the commissioner of education for all persons within the district receiving instruction in a home school in compliance with sections 120.101 and 120.102. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, and 4 to the superintendent of the school district in which the person resides by October 1 of each school year. The school report shall be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local school districts by the commissioner of health and shall state the number of persons attending the school, the number of persons who have not been immunized according to sub-

division 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report shall be filed with the commissioner of education within 60 days of the commencement of each new school term. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the ~~day~~ child care facility shall file a report with the commissioner of human services on all persons enrolled in the ~~day~~ child care facility. The ~~day~~ child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to ~~day~~ child care facilities by the commissioner of health and must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The ~~day~~ child care facility report shall be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family ~~day~~ child care or group family ~~day~~ child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to section 120.17, subdivision 2, nor for child care facilities in which at least 75 percent of children in the facility participate on a one-time only or occasional basis to a maximum of 45 hours per child, per month.

Sec. 8. Minnesota Statutes 1990, section 123.70, subdivision 9, is amended to read:

Subd. 9. As used in this section the following terms have the meanings given them.

(a) "Elementary or secondary school" includes any public school as defined in section 120.05, or nonpublic school, church, or religious organization, or home school in which a child is provided instruction in compliance with sections 120.101 and 120.102.

(b) "Person enrolled in any elementary or secondary school" means a person born after 1956 and enrolled in grades kindergarten through 12, and a handicapped child receiving special instruction and services as required in section 120.17, excluding a child being provided services according to section 120.17, subdivision 2, clause (c) or (g).

(c) "Child care facility" includes those child care programs subject to licensure under chapter 245A, and Minnesota Rules, chapters 9502 and 9503.

(d) "Family ~~day~~ child care" means ~~day~~ child care for no more than ten children at one time of which no more than six are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

New language is indicated by underline, deletions by ~~strikeout~~.

~~(d)~~ (c) "Group family ~~day~~ child care" means ~~day~~ child care for no more than 14 children at any one time. The total number of children includes all children of any caregiver when the children are present in the residence.

Sec. 9. Minnesota Statutes 1990, section 123.70, subdivision 10, is amended to read:

Subd. 10. A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(a) For persons enrolled in grades 7 and 12 during the 1992-1993 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(b) For persons enrolled in grades 7, 8, and 12 during the 1993-1994 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(c) For persons enrolled in grades 7, 8, 9, and 12 during the 1994-1995 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(d) For persons enrolled in grades 7, 8, 9, 10, and 12 during the 1995-1996 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(e) For persons enrolled in grades 7 through 12 during the 1996-1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

Sec. 10. Minnesota Statutes 1990, section 123.70, is amended by adding a subdivision to read:

Subd. 11. COMMISSIONER OF HUMAN SERVICES; CONTINUED RESPONSIBILITIES. Nothing in this section relieves the commissioner of human services of the responsibility, under chapter 245A, to inspect and assure that statements required by this section are on file at child care programs subject to licensure.

Sec. 11. Minnesota Statutes 1990, section 151.37, is amended by adding a subdivision to read:

Subd. 10. PURCHASE OF DRUGS FOR COMMUNICABLE DISEASES. The commissioner of health, in carrying out the duties of section 144.05, may purchase and distribute antituberculosis drugs, biologics, and vaccines to treat and prevent communicable disease.

New language is indicated by underling, deletions by ~~strikesout~~.

# Sec. 12. EFFECTIVE DATE.

Sections 1 to 11 are effective July 1, 1991, except that the requirements in sections 1, 3, and 4, pertaining to haemophilus influenza type b, are effective July 1, 1992.

Presented to the governor April 16, 1991

Signed by the governor April 19, 1991, 5:12 p.m.

## CHAPTER 31—H.F.No. 795

*An act relating to counties; removing certain restrictions on county morgues; amending Minnesota Statutes 1990, sections 390.06 and 390.07.*

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 390.06, is amended to read:

#### 390.06 PUBLIC MORGUE.

In every county with a population of 100,000 or over, the board shall provide and equip a public morgue ~~at the county seat~~. The morgue's purpose is to receive and dispose of all dead bodies which are by law subject to a post mortem or coroner's inquest, without charge to anyone. ~~The cost of building and equipping the morgue must not exceed \$2,500, and its maintenance must not exceed \$3,000 a year.~~

Sec. 2. Minnesota Statutes 1990, section 390.07, is amended to read:

#### 390.07 MORGUE MAINTENANCE.

The morgue must be under the control of the county board ~~and be maintained in a suitable building separate from any other business~~. It must be equipped with the best modern approved appliances to handle and dispose of dead bodies. It must not be connected in any manner with any undertaking establishment. No person shall be employed in the morgue who is in any manner connected with or interested in the undertaking business.

# Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective the day following final enactment.

Presented to the governor April 18, 1991

Signed by the governor April 22, 1991, 3:10 p.m.

1991 1991 c 265 art 3 s 38

Ch. 265

LAWS of MINNESOTA for 1991

944

sion 2; 203B.085; 214.10, by adding a subdivision; 245A.03, subdivision 2; 260.015, subdivision 19; 268.08, subdivision 6; 272.02, subdivision 8; 275.085, subdivisions 3, 5a, and 6; 275.125, subdivisions 4, 5, 5b, 5c, 11d, and by adding a subdivision; 279.01, subdivision 1a; 281.17; 298.28, subdivision 4; 364.09; 475.61, subdivision 3; and 631.40; Laws 1989, chapter 329, article 4, section 20; and article 6, section 33, subdivision 6, as amended; proposing coding for new law in Minnesota Statutes, chapters 3; 120; 121; 122; 123; 124; 124C; 125; 127; 128B; 129C; 134; 136D; 171; 373; and 473; repealing Minnesota Statutes 1990, sections 3.863; 3.866; 120.011; 120.104; 120.105; 121.111; 121.15, subdivision 10; 121.91, subdivision 7; 121.932, subdivision 1; 121.933, subdivision 2; 121.935, subdivisions 3 and 5; 121.936, subdivision 5; 121.937, subdivision 2; 122.43, subdivision 1; 122.531, subdivision 5; 122.945, subdivision 4; 123.3514, subdivisions 6 and 8b; 123.706; 123.707; 123.73; 123.744; 124.225, subdivisions 3, 4b, 7c, 8b, 8c, and 8j; 124.252; 124.26, subdivisions 7 and 8; 124.2713, subdivision 4; 124.2721, subdivision 3a; 124.48, subdivision 2; 124.493, subdivision 2; 124.535, subdivision 3a; 124A.02, subdivision 19; 124C.01, subdivision 2; 124C.02; 124C.41, subdivisions 6 and 7; 125.231, subdivision 6; 128B.01; 128B.03, subdivisions 3 and 8; 128B.07; 128B.10, subdivision 3; 128C.12, subdivision 2; 129C.10, subdivision 5; 135A.10, subdivision 2; 136A.044; 136D.27, subdivision 1; 136D.28; 136D.30; 136D.74, subdivision 2; 136D.87, subdivision 1; 136D.89; 136D.91; and 275.125, subdivisions 8b, 8c, and 8d; Laws 1989, chapter 329, article 12, section 8.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

## ARTICLE 1

### GENERAL EDUCATION REVENUE

Section 1. Minnesota Statutes 1990, section 121.904, subdivision 4a, is amended to read:

Subd. 4a. **LEVY RECOGNITION.** (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district, including distributions made pursuant to section 279.37, subdivision 7, and excluding the amount levied pursuant to sections 124.2721, subdivision 3; 124.575, subdivision 3; and 275.125, subdivision 9a; and Laws 1976, chapter 20, section 4.

(b) In June of each year, the school district shall recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the June and July school district tax settlement revenue received in that calendar year; or

(2) the sum of the state aids and credits enumerated in section 124.155, subdivision 2, which are for the fiscal year payable in that fiscal year plus ~~34.0~~ 37.0 percent of the amount of the levy certified in the prior calendar year according to section 124A.03, subdivision 2, plus or minus auditor's adjustments, not including levy portions that are assumed by the state; or

New language is indicated by underline, deletions by ~~strikeout~~.



275.125, subdivision 8c. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy shall be recognized as revenue for fiscal year 1992.

#### Sec. 37. INDIVIDUALIZED LEARNING AND DEVELOPMENT AID.

Notwithstanding Minnesota Statutes, section 124.332, subdivision 1, a district may submit its instructor learner ratio to the commissioner for the 1991-1992 school year by August 1, 1991.

#### Sec. 38. INSTRUCTION TO THE REVISOR.

In the next edition of Minnesota Statutes, the revisor of statutes shall delete each term in column A and insert the term in column B wherever the terms in column A appear within the education code.

<u>Column A</u>	<u>Column B</u>
<u>Handicapped children</u>	<u>Children with a disability</u>
<u>Handicapping conditions</u>	<u>Disabling conditions</u>
<u>Handicapped pupil</u>	<u>Pupil with a disability</u>
<u>Nonhandicapped pupil</u>	<u>Pupil without a disability</u>
<u>Nonhandicapped children</u>	<u>Children without a disability</u>
<u>Handicapped students</u>	<u>Pupil with a disability</u>
<u>Handicapped child</u>	<u>Child with a disability</u>
<u>Children with handicaps</u>	<u>Children with disabilities</u>
<u>Handicapped youth</u>	<u>Youth with a disability</u>
<u>Handicapped individuals</u>	<u>Individuals with a disability</u>

#### Sec. 39. APPROPRIATIONS.

Subdivision 1. DEPARTMENT OF EDUCATION. The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. SPECIAL EDUCATION AID. For special education aid according to Minnesota Statutes, section 124.32:

<u>\$167,105,000</u>	<u>----</u>	<u>1992</u>
<u>\$167,238,000</u>	<u>----</u>	<u>1993</u>

The 1992 appropriation includes \$24,996,000 for 1991 and \$142,109,000 for 1992.

The 1993 appropriation includes \$25,078,000 for 1992 and \$142,160,000 for 1993.

Subd. 3. SPECIAL PUPIL AID. For special education aid according to Minnesota Statutes, section 124.32, subdivision 6, for pupils with handicaps placed in residential facilities within the district boundaries for whom no district of residence can be determined:

<u>\$395,000</u>	<u>----</u>	<u>1992</u>
<u>\$436,000</u>	<u>----</u>	<u>1993</u>

New language is indicated by underling, deletions by ~~strikeout~~.

1995 ; 1Sp1995 c 3 art 9 s 26; (Effective October 1, 1995) –based on 1Sp1995 c2 art16 s13

Ch. 2, Art. 2

LAWS of MINNESOTA  
1995 FIRST SPECIAL SESSION

3196

and training board for the fiscal year ending June 30, 1995. This appropriation is added to the appropriation in Laws 1993, chapter 146, article 2, section 2, to provide for staffing and general operating costs of the board, including legal fees.

Sec. 4. EFFECTIVE DATE.

This article is effective the day following final enactment.

Presented to the governor May 26, 1995

Signed by the governor June 8, 1995, 12:58 p.m.

CHAPTER 3—H.F.No. 4

*An act relating to government financing; providing for education general and uniform revenue; education transportation; education special programs; community programs; education facilities; education organization and cooperation; education excellence; other education programs; miscellaneous education provisions; libraries; state agencies; education technology; technical and conforming amendments; budget reserve and cost management; education targeted needs revenue; establishing the department of children, families, and learning; providing for penalties; appropriating money; amending Minnesota Statutes 1994, sections 6.62, subdivision 1; 13.43, subdivision 2; 16A.152, subdivisions 2, 4, and by adding a subdivision; 16B.465; 43A.316, subdivision 2; 62L.08, subdivision 7a; 116J.655; 120.064; 120.101, subdivision 3c, and by adding a subdivision; 120.17, subdivisions 3a, 3b, and by adding a subdivision; 120.74, subdivision 1; 120.75, subdivision 1; 121.11, subdivision 7c; 121.13, subdivision 6; 121.207, subdivisions 2 and 3; 121.702, by adding a subdivision; 121.705; 121.706; 121.707, subdivisions 2, 3, 4, 6, and 7; 121.708; 121.709; 121.710; 121.8355, subdivision 2; 121.885, subdivisions 1 and 4; 121.904, subdivisions 4a and 4c; 121.912, subdivisions 1, 1b, and 6; 121.931; 121.932; 121.933, subdivision 1; 121.935; 122.21, subdivision 4; 122.532, subdivision 3a; 122.895, subdivisions 1, 8, and 9; 122.91, subdivisions 1, 2, and 2a; 122.92, subdivision 1; 122.93, subdivision 1; 122.94, subdivision 1; 123.34, by adding a subdivision; 123.35, subdivision 10b; 123.351, subdivisions 1, 3, 4, and 5; 123.3514, subdivisions 4d, 7, 8, and by adding a subdivision; 123.39, subdivision 1; 123.70, subdivision 8; 123.78, subdivision 1; 123.79, subdivision 1; 123.7991, subdivisions 2 and 3; 123.805, subdivisions 1 and 2; 124.06; 124.14, by adding a subdivision; 124.155, subdivision 2; 124.17, subdivisions 1, 1d, 2f, and by adding a subdivision; 124.193; 124.195, subdivision 10, and by adding subdivisions; 124.2139; 124.214, subdivisions 2 and 3; 124.223; 124.225, subdivisions 1, 3a, 7b, 7d, 7f, 8a, 8f, 8m, 9, and by adding subdivisions; 124.226, subdivisions 3, 4, 9, and by adding a subdivision; 124.243, subdivision 2; 124.244, subdivisions 1 and 4; 124.245; 124.2455; 124.248; 124.261, subdivision 1; 124.2711, subdivision 2a; 124.2713, subdivision 6; 124.2725, subdivisions 1, 3, 4, and 15; 124.2726, subdivisions 1, 2, and 4; 124.2728, subdivision 1; 124.273, by adding subdivisions; 124.32, subdivisions 7, 10, and 12; 124.321, subdivisions 1 and 2; 124.322; 124.323, subdivisions 1, 2, and by adding a subdivision; 124.431, subdivision 2; 124.574, subdivisions 7, 9, and by adding subdivisions; 124.83, subdivision 4; 124.84, sub-*

New language is indicated by underline, deletions by ~~strikeout~~.

## ARTICLE 9

## MISCELLANEOUS

Section 1. Minnesota Statutes 1994, section 13.43, subdivision 2, is amended to read:

Subd. 2. **PUBLIC DATA.** (a) Except for employees described in subdivision 5, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members of advisory boards or commissions is public: name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the existence and status of any complaints or charges against the employee, whether or not the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body; the terms of any agreement settling any dispute arising out of ~~the an~~ employment relationship ~~or of a buyout agreement, as defined in section 123.34, subdivision 9a, paragraph (a);~~ work location; a work telephone number; badge number; honors and awards received; payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; and city and county of residence.

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

(c) The state agency, statewide system, or political subdivision may display a photograph of a current or former employee to a prospective witness as part of the state agency's, statewide system's, or political subdivision's investigation of any complaint or charge against the employee.

(d) A complainant has access to a statement provided by the complainant to a state agency, statewide system, or political subdivision in connection with a complaint or charge against an employee.

New language is indicated by underling, deletions by ~~strikethrough~~.

(d) The SC is a public corporation and agency and its board of directors may make application for, accept, and expend private, state, and federal funds that are available for programs of the members.

(e) The SC is a public corporation and agency and as such, no earnings or interests of the SC may inure to the benefit of an individual or private entity.

Subd. 10. ANNUAL MEETING. Each SC shall conduct a meeting at least annually for its members.

Subd. 11. JOINT POWERS ACT. Nothing in this section shall restrict the authority granted to school district boards of education by section 471.59.

Sec. 26. Minnesota Statutes 1994, section 123.70, subdivision 8, is amended to read:

Subd. 8. The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner of education on all persons enrolled in the school, except that the superintendent of each school district shall file a report with the commissioner of education for all persons within the district receiving instruction in a home school in compliance with sections 120.101 and 120.102. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, and 4 to the superintendent of the school district in which the person resides by October 1 of each school year. The school report shall be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local school districts by the commissioner of health and shall state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report shall be filed with the commissioner of education within 60 days of the commencement of each new school term. Upon request, a district shall be given a 60-day extension for filing the school report. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health and must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report shall be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to

the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to section 120.17, subdivision 2, nor for child care facilities in which at least 75 percent of children in the facility participate on a one-time only or occasional basis to a maximum of 45 hours per child, per month.

Sec. 27. Minnesota Statutes 1994, section 124.193, is amended to read:

**124.193 PROHIBITED AID AND LEVIES.**

Unless specifically permitted in the provision authorizing an aid or a levy, cooperative units of government defined in section 123.35, subdivision 19b, paragraph (d), are prohibited from making a property tax levy or qualifying for or receiving any form of state aid except that a cooperative unit may apply for and receive a grant on behalf of its members.

Sec. 28. Minnesota Statutes 1994, section 126.031, subdivision 1, is amended to read:

Subdivision 1. **INSTRUCTION REQUIRED PERMITTED.** Every public elementary and secondary school ~~shall~~ may provide an instructional program in chemical abuse and the prevention of chemical dependency. The school districts shall involve parents, students, health care professionals, state department staff, and other members of the community with a particular interest in chemical dependency prevention in developing the curriculum.

Sec. 29. Minnesota Statutes 1994, section 126.78, subdivision 2, is amended to read:

Subd. 2. **GRANT APPLICATION.** To be eligible to receive a grant, a school district, an education district, a service cooperative, or a group of districts that cooperate for a particular purpose must submit an application to the commissioner in the form and manner and according to the timeline established by the commissioner. The application must describe how the applicant will: (1) continue or integrate into its existing K-12 curriculum a program for violence prevention that contains the program components listed in section 126.77; (2) collaborate with local organizations involved in violence prevention and intervention; and (3) structure the program to reflect the characteristics of the children, their families and the community involved in the program. The commissioner may require additional information from the applicant. When reviewing the applications, the commissioner shall determine whether the applicant has met the requirements of this subdivision.

**Sec. 30. ~~[127.311]~~ GOOD FAITH EXCEPTION.**

New language is indicated by underling, deletions by ~~strikesout~~.

(c) Based on the data collected, the department shall make recommendations to the legislature by March 15, 1995, for changes in the pupil fair dismissal act.

#### Sec. 39. SUCCESSOR TO ECSUS.

Each service cooperative established under section 25 is a continuation of the ECSU it replaces. The service cooperative is the legal successor in all respects of the ECSU, without need of further proceedings of any kind. The personnel of the ECSU become personnel of the service cooperative, retaining all their rights and benefits. All property, obligations, assets, and liabilities of the ECSU become the property, obligations, assets, and liabilities of the service cooperative.

#### Sec. 40. SC INSURANCE POOLS.

(a) A service cooperative shall provide all financial information that deals with revenues and expenses on behalf of local school districts that have pooled for insurance purposes.

(b) All service cooperative insurance advisory labor management committees must have representation from all exclusive representatives. The representation must be provided by appointment by the respective exclusive representatives.

#### Sec. 41. COMBINED FINANCIAL STATEMENT.

For fiscal year 1995, independent school district Nos. 209, Kensington; 262, Barret; 263, Elbow Lake; and 265, Hoffman, may submit a combined audited financial statement to comply with the requirement of Minnesota Statutes, section 121.908, subdivision 3. The individual districts must also submit separate uniform financial accounting and reporting standards data for fiscal year 1995, according to Minnesota Statutes, section 121.908, subdivisions 2 and 3.

#### Sec. 42. REPEALER.

Minnesota Statutes 1994, sections 3.198; 121.93; 121.936; and 123.58, are repealed.

#### Sec. 43. EFFECTIVE DATE.

Section 19 applies to contracts to take effect on or after July 1, 1995.

1995 1Sp1995 c 3 art 16 s 13; (provides effective date for 1Sp1995 c3 art9 s26)

3437

LAWS of MINNESOTA  
1995 FIRST SPECIAL SESSION

Ch. 3, Art. 16

The 1996 appropriation includes \$590,000 for 1995 and \$3,899,000 for 1996.

The 1997 appropriation includes \$688,000 for 1996 and \$4,736,000 for 1997.

Subd. 9. SPECIAL PROGRAMS EQUALIZATION AID. For special education levy equalization aid according to Minnesota Statutes, section 124.321:

<u>\$24,525,000</u>	<u>----</u>	<u>1996</u>
<u>\$19,030,000</u>	<u>----</u>	<u>1997</u>

The 1996 appropriation includes \$2,584,000 for 1995 and \$21,941,000 for 1996.

The 1997 appropriation includes \$3,872,000 for 1996 and \$15,158,000 for 1997.

Subd. 10. LOW-INCOME CONCENTRATION GRANTS. For low-income concentration grants according to Laws 1994, chapter 647, article 8, section 43:

<u>\$1,150,000</u>	<u>----</u>	<u>1996</u>
<u>\$1,150,000</u>	<u>----</u>	<u>1997</u>

Sec. 27. REPEALER.

Minnesota Statutes 1994, sections 124.273, subdivisions 1b and 2c; 124.32, subdivisions 1b, 1c, 1d, 1f, 2, and 3a; and 124.374, subdivisions 2b, 3, 4, and 4a, are repealed.

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ARTICLE 16

DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING

Section 1. [119A.01] ABOLISHMENT; ESTABLISHMENT; PURPOSE; AND GOALS.

Subdivision 1. ABOLISHMENT. The position of commissioner of education and the department of education are abolished. The employees of the department of education are transferred to the department of children, families, and learning under section 15.039, subdivision 7.

Subd. 2. ESTABLISHMENT. The department of children, families, and learning is established.

Subd. 3. PURPOSE. The purpose in creating the department is to increase the capacity of Minnesota communities to measurably improve the well-being of children and families by:

New language is indicated by underline, deletions by ~~strikesout~~.

representatives of affected employees of the agency in the event that employees are at risk of being laid off due to restructuring or significant change in the activities of the agency. Bargaining under this subdivision must have as its purpose the achievement of the highest possible degree of public service delivery to the citizens of Minnesota and the provision of appropriate incentives to state employees. Incentives may include, but are not limited to, early retirement incentives, negotiated options in place of layoff, methods to mitigate layoffs and the effect of layoffs, job training and retraining opportunities, and enhanced severance.

Subd. 5. EMPLOYEE TRAINING AND RETRAINING. The legislature recognizes that a well-trained and well-educated work force is needed to provide effective and efficient public service delivery and that training and retraining of state employees is a priority when merger and reorganization of state agencies occur. The labor and management committee required by subdivision 2 shall determine the employee training and retraining required because of agency reorganization. Employees whose job duties are affected by reorganization must be given the opportunity to take part in training or retraining for the new job duties. Existing employees must be trained or retrained for agency positions before new hiring takes place.

#### **Sec. 11. APPOINTMENT; TRANSFERS OF EDUCATION FUNCTIONS.**

By July 1, 1995, the governor shall appoint a commissioner-designate of the department of children, families, and learning. The person appointed becomes the governor's appointee as commissioner on the effective date of Minnesota Statutes, sections 119A.01, subdivision 2, and 119A.03. The commissioner-designate, in cooperation with the commissioner of education, shall review and reevaluate the powers and duties of the department of education and identify those that are consistent with the purpose and goals of the department of children, families, and learning. The functions identified by the commissioner-designate are transferred to the department of children, families, and learning under Minnesota Statutes, section 15.039, effective October 1, 1995.

#### **Sec. 12. REPORT ON INTEGRATION WITH OTHER INCOME MAINTENANCE AND ECONOMIC SECURITY PROGRAMS.**

The children's cabinet shall prepare a report by November 15, 1996, examining the integration of programs in the department of children, families, and learning with income maintenance and economic security programs operated by other departments. The report shall make recommendations on the appropriate agency placement of the income maintenance and economic security programs reviewed.

#### **Sec. 13. REVISOR INSTRUCTION.**

The revisor of statutes shall identify in Minnesota Statutes and Minnesota Rules all references to the commissioner of education and the department of education and shall make the following terminology changes:

New language is indicated by underline, deletions by ~~strikesout~~.



(1) all references to the commissioner of education shall be changed to the commissioner of children, families, and learning;

(2) all references to the department of education shall be changed to the department of children, families, and learning;

(3) all references involving the commissioner of education shall be rewritten to give all relevant responsibilities or authorities to the commissioner of children, families, and learning; and

(4) all references to the programs being transferred to the department of children, families, and learning to reflect that those programs are under the jurisdiction of the commissioner of children, families, and learning.

The revisor shall prepare a report for the 1996 legislature showing where these changes were made.

The changes identified by the revisor shall be made effective October 1, 1995, pursuant to the effective date in section 15.

Sec. 14. REPEALER.

Laws 1995, chapter 207, article 1, section 9, subdivision 3, is repealed effective the day following final enactment.

Sec. 15. EFFECTIVE DATE.

Section 1, subdivision 1, is effective September 30, 1995. Section 1, subdivisions 2 and 3, and sections 2, 3, 5, 7, and 13, are effective October 1, 1995. Section 4 is effective July 1, 1996. Sections 8 and 10 are effective July 1, 1995. Section 11 is effective the day following final enactment.

Presented to the governor May 26, 1995

Signed by the governor June 8, 1995, 1:00 p.m.

1996 1996 c 398 s 25; (Effective January 1, 1997) by 1996 c398 s67

501

LAWS of MINNESOTA for 1996

Ch. 398

groups under its jurisdiction, from direct-appropriated funds on professional or technical service contracts may not exceed 95 percent of the amount spent on these contracts from direct-appropriated funds during the biennium from July 1, 1993, to June 30, 1995. Each entity listed in clauses (1), (2), and (3) of this paragraph must be treated separately for purposes of determining compliance with this paragraph, except that the legislative coordinating commission and all groups under its jurisdiction must be treated as one unit. For purposes of this paragraph, "professional or technical service contract" has the meaning defined in section 16B.17, but does not include contracts for actuarial services entered into by the legislative commission on pensions and retirement, or contracts with other legislative or state executive agencies. The house of representatives committee on rules and legislative administration, the senate committee on rules and administration, and the legislative coordinating commission must each determine the amount of the reduction to be made under this paragraph.

#### Sec. 5. EFFECTIVE DATE.

Sections 1 to 4 are effective the day following final enactment.

Presented to the governor March 29, 1996

Signed by the governor April 2, 1996, 10:02 a.m.

### CHAPTER 398—H.F.No. 2206

*An act relating to education; removing mandates from higher education; requiring increased accountability and performance for funding; allowing higher education greater flexibility in conducting its business; amending Minnesota Statutes 1994, sections 15.43, subdivisions 2 and 3; 16B.01, subdivision 2; 16B.21, subdivisions 1 and 3; 16B.33, subdivisions 1, 3, 4, and by adding a subdivision; 16B.35, by adding a subdivision; 16B.36, subdivision 1; 16B.37, subdivision 1; 16B.41, subdivision 2; 16B.482; 16B.49; 16B.531; 16B.54, subdivision 1; 16B.85, subdivision 2; 43A.05, subdivision 4; 43A.10, subdivision 3; 123.70, subdivision 10; 135A.033; 135A.14, as amended; 137.37; 169.448, subdivision 2; 201.1611; and 248.07, subdivision 7; Minnesota Statutes 1995 Supplement, sections 16B.17, subdivision 6; 16B.465, subdivision 4; 43A.06, subdivision 1; 135A.181, subdivision 2; 136A.101, subdivision 10; 136F.06, subdivisions 1 and 2; 136F.12; 136F.16, subdivision 3; 136F.18; 136F.30; 136F.36, subdivision 2; 136F.44; 136F.50; 136F.53, subdivisions 1 and 3; 136F.58; 136F.71, by adding a subdivision; 136F.72, subdivision 3; 136F.80, subdivision 2; and 169.441, subdivision 3; Laws 1995, chapter 212, article 2, sections 13; and 20, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapters 16B; 135A; 136A; and 136F; repealing Minnesota Statutes 1994, sections 137.03; 137.05; 137.06; 137.07; 137.08; 137.11; 137.14; 137.15; and 137.33; Minnesota Statutes 1995 Supplement, section 136F.39, subdivision 1.*

#### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1994, section 15.43, subdivision 2, is amended to read:

Subd. 2. TEXTBOOKS EXEMPTED. Textbooks, software, and other course materials authored by an employee of the state's education systems Minnesota state colleges

New language is indicated by underline, deletions by ~~strikeout~~.

lective bargaining or to enter into interest arbitration remains with the commissioner of employee relations, who shall exercise those powers in consultation with the board of trustees of the Minnesota state colleges and universities. The commissioner of employee relations shall have the right to review and comment to the Minnesota state colleges and universities on the board's final proposals prior to exchange of final positions with the designated bargaining units as well as any requests for interest arbitration. When submitting a proposed collective bargaining agreement to the legislative coordinating commission and the legislature under section 3.855, subdivision 2, the board of trustees must use procedures and assumptions consistent with those used by the commissioner of employee relations in calculating the costs of the proposed contract.

Sec. 24. Minnesota Statutes 1994, section 43A.10, subdivision 3, is amended to read:

Subd. 3. **FACILITIES FURNISHED EXAMINERS.** The authorities having control of public buildings in political subdivisions of the state and school districts, upon written request of the commissioner, shall furnish without charge convenient facilities for the administration of examinations. Upon such request, it shall be the duty of state and local authorities and employees, as it is consistent with their other duties, to aid in carrying out the provisions of this section. Campuses of the Minnesota state colleges and universities may charge the commissioner for actual costs incurred in providing facilities for examinations, provided that the costs were incurred due solely to the examination.

Sec. 25. Minnesota Statutes 1994, section 123.70, subdivision 10, is amended to read:

Subd. 10. A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(a) For persons enrolled in grades 7 and 12 during the ~~1992-1993~~ 1996-1997 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(b) For persons enrolled in grades 7, 8, and 12 during the ~~1993-1994~~ 1997-1998 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(c) For persons enrolled in grades 7, 8, 9, and 12 during the ~~1994-1995~~ 1998-1999 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(d) For persons enrolled in grades 7, 8, 9, 10, and 12 during the ~~1995-1996~~ 1999-2000 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

New language is indicated by underline, deletions by ~~strikeout~~.

(e) For persons enrolled in grades 7 through 12 during the 2000-2001 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(f) For persons enrolled in grades 7 through 12 during the 1996-1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

Sec. 26. Minnesota Statutes 1994, section 135A.033, is amended to read:

**135A.033 PERFORMANCE FUNDING.**

The governing boards of the University of Minnesota, the state universities, the community colleges, and the technical colleges and the Minnesota state colleges and universities, in conjunction with their respective campuses, shall each specify performance categories and indicators relating to section 135A.053, subdivision 1, to be used for policy and appropriations decisions, as well as allocations for rewarding campuses that achieve performance levels and assisting campuses that are unable to achieve these levels. Because the mission of each system and type of campus varies, categories and indicators shall vary accordingly.

**Sec. 27. [135A.053] STATE HIGHER EDUCATION POLICY.**

Subdivision 1. STATEWIDE OBJECTIVES. Minnesota's higher education investment is made in pursuit of the following objectives:

(1) to ensure quality - to provide a level of excellence that is competitive on a national and international level, through high quality teaching, scholarship, and learning in a broad range of arts and sciences, technical education, and professional fields;

(2) to foster student success - to enable and encourage students to choose institutions and programs that are best suited for their talents and abilities, and to provide an educational climate that supports students in pursuing their goals and aspirations;

(3) to promote democratic values - to enhance Minnesota's quality of life by developing understanding and appreciation of a free and diverse society;

(4) to maintain access - to provide an opportunity for all Minnesotans, regardless of personal circumstances, to participate in higher education; and

(5) to enhance the economy - to assist the state in being competitive in the world market, and to prepare a highly skilled and adaptable workforce that meets Minnesota's opportunities and needs.

Subd. 2. PERFORMANCE AND ACCOUNTABILITY. Higher education systems and campuses are expected to achieve the objectives in subdivision 1 and will be held accountable for doing so. The legislature is increasing the flexibility of the systems and campuses to provide greater responsibility to higher education in deciding how to achieve statewide objectives, and to decentralize authority so that those decisions can be made at the level where the education is delivered. To demonstrate their accountability, the legislature expects each system and campus to measure and report on its performance, using meaningful indicators that are critical to achieving the objectives in subdivision 1, as provided in section 135A.033. Nothing in this section precludes a system or campus

New language is indicated by underline, deletions by strikeout.

**Sec. 64. CONTRACT LIABILITY.**

Any procurement contract involving the department of administration that (1) was entered into before March 1, 1996, and (2) would be breached without the participation of the Minnesota state colleges and universities as determined by the attorney general, shall remain in effect until the first time that the Minnesota state colleges and universities can be excluded without liability.

**Sec. 65. TRANSITIONAL BARGAINING.**

Changes in the authority of the board of trustees to negotiate contracts under section 23 apply to negotiations for contracts for the period beginning July 1, 1999.

**Sec. 66. REPEALER.**

Minnesota Statutes 1994, sections 137.03; 137.05; 137.06; 137.07; 137.08; 137.11; 137.14; 137.15; and 137.33; Minnesota Statutes 1995 Supplement, section 136F.59, subdivision 1, are repealed.

**Sec. 67. EFFECTIVE DATE.**

Sections 1, 2, 5 to 11, 14, 15, 26 to 31, 33 to 38, 41 to 46, 48, and 53 to 66 are effective the day following final enactment. Sections 3, 4, 12, 13, 16 to 24, 32, 39, 40, 47, and 49 to 52 are effective July 1, 1996. Section 25 is effective January 1, 1997.

Presented to the governor March 29, 1996

Signed by the governor April 2, 1996, 10:10 a.m.

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**CHAPTER 399—H.F.No. 1567**

*An act relating to public funds; regulating the deposit and investment of these funds, and agreements related to these funds; requiring a study; making conforming changes; amending Minnesota Statutes 1994, sections 6.745, as amended; 108E.635, subdivision 8; 121.148, subdivision 4; 126A.32, subdivision 7; 385.07; 447.49; 469.012, subdivisions 1; 469.155, subdivision 15; 473.197, subdivision 4; 473.543, subdivision 3; and 475.51, subdivision 1; Minnesota Statutes 1995 Supplement, section 473.900, subdivision 3; proposing coding for new law as Minnesota Statutes, chapter 118A; repealing Minnesota Statutes 1994, sections 118.005; 118.01; 118.02; 118.08; 118.09; 118.10; 118.11; 118.12; 118.13; 118.14; 118.16; 124.05; 471.56; 475.66, as amended; and 475.76.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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**ARTICLE 1**
**PUBLIC FUNDS**

Section 1. Minnesota Statutes 1994, section 6.745, as amended by Laws 1995, chapter 134, section 1, is amended to read:

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1997 1Sp1997 c 3 s 20-22;

Ch. 2

LAWS of MINNESOTA  
1997 FIRST SPECIAL SESSION

3188

**Sec. 69. REPEALER.**

Minnesota Statutes 1996, sections 84.873; 84.91, subdivisions 2, 3, 4, 5, 5a, 6, 7, and 8; 84.911, subdivisions 1, 2, 3, 4, 5, and 6; 84.912; 84.9254; 86B.331, subdivisions 2, 3, 4, 5, 5a, 6, 7, and 8; 86B.335, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12; 86B.337; 97B.066, subdivision 6; and 169.121, subdivision 3a, are repealed.

**Sec. 70. EFFECTIVE DATE.**

Section 57 is effective August 1, 1997. Sections 1 to 18, 20 to 54, 56, 58 to 67, and 69 are effective January 1, 1998, and apply to violations occurring on or after that date. However, violations occurring before January 1, 1998, which are listed in Minnesota Statutes, section 169.121, subdivision 3, paragraph (a), are considered prior impaired driving convictions or prior license revocations for purposes of: determining conditional release, long-term monitoring, criminal penalties, sentencing, and administrative licensing sanctions for a person charged for or convicted of a violation occurring on or after January 1, 1998.

Sections 19 and 55 are effective July 1, 1997, and apply to vehicle registrations and driver's license reinstatements, respectively, occurring on or after that date.

Repeal of civil penalty payment and enforcement provisions in Minnesota Statutes, sections 84.911 and 86B.335, applies only to refusals occurring on or after January 1, 1998.

Presented to the governor June 27, 1997

Signed by the governor June 30, 1997, 9:43 a.m.

**CHAPTER 3—S.F.No. 7**

*An act relating to government data practices; classifying data; making certain welfare and housing data available to law enforcement agencies; classifying data on individuals who receive homeless services; eliminating the requirement that government agencies pay a fee for commissioner's opinions; modifying school immunization and health record provisions; modifying patient consent to release of records for research; requiring notice of investigations to health board licensees; providing for juvenile justice system access to certain education data; providing for disclosure or inspection of certain tax data or return information; limiting disclosure of certain tax data under subpoena; indexing statutes that restrict data access and are located outside chapter 13; providing criminal penalties; amending Minnesota Statutes 1996, sections 13.32, subdivisions 1, 3, and by adding a subdivision; 13.41, subdivision 2; 13.46, subdivision 2; 13.54, by adding a subdivision; 13.99, subdivision 53b, and by adding subdivisions; 53A.081, by adding a subdivision; 123.70, subdivisions 5, 7, and 10; 144.29; 144.335, subdivision 3a; 214.10, subdivision 1; 260.161, by adding a subdivision; 270.66, subdivision 3; 270B.01, subdivision 8, as amended; 270B.03, subdivisions 1, 3, and 4; 270B.08, subdivision 1; 270B.085, subdivision 1; 270B.09; 270B.12, subdivision 7; 270B.14, subdivision 1, and by adding subdivisions; 270B.16; 287.34; and 626.556, subdivision 11; propos-*

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 17. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 63a. REGISTERED VOTER LISTS. Access to registered voter lists is governed by section 201.091.

Sec. 18. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 95a. MEDICAL EXAMINER INVESTIGATIONS. Certain data on deceased persons collected or created by the Hennepin county medical examiner are classified under section 383B.225.

Sec. 19. Minnesota Statutes 1996, section 53A.081, is amended by adding a subdivision to read:

Subd. 4. CLASSIFICATION OF DATA. Financial information on individuals and businesses that is submitted to the commissioner in the annual report under subdivision 1 are private data on individuals or nonpublic data.

Sec. 20. Minnesota Statutes 1996, section 123.70, subdivision 5, is amended to read:

Subd. 5. If a person transfers from one elementary or secondary school to another, the person shall be allowed school board of a public school district or the administrator of a nonpublic school may allow the person up to a maximum of 30 days to submit one or more of the statements as specified in subdivision 1 or 3, during which time the person may enroll in and attend the school. If a person enrolls in a child care facility in which at least 75 percent of children in the facility participate on a one-time only or occasional basis to a maximum of 45 hours per child, per month, or is placed in a facility by a crisis nursery, the person shall be exempt from all requirements of this section for up to five consecutive days, starting from the first day of attendance.

Sec. 21. Minnesota Statutes 1996, section 123.70, subdivision 7, is amended to read:

Subd. 7. Each school or child care facility shall maintain on file immunization records for all persons in attendance that contain the information required by subdivisions 1, 2, and 3. The school shall maintain the records for at least five years after the person attains the age of majority. The department of health and the board of health, as defined in section 145A.02, subdivision 2, in whose jurisdiction the school or child care facility is located, shall have access to the files maintained pursuant to this subdivision. When a person transfers to another elementary or secondary school or child care facility, the administrator or other person having general control and supervision of the school or child care facility shall assist the person's parent or guardian in the transfer of the immunization file to the person's new school or child care facility within 30 days of the transfer. Upon the request of a public or private post-secondary educational institution, as defined in section 135A.14, the administrator or other person having general control or supervision of a school shall assist in the transfer of a student's immunization file to the post-secondary institution.

Sec. 22. Minnesota Statutes 1996, section 123.70, subdivision 10, is amended to read:

Subd. 10. A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(a) For persons enrolled in grades 7 and 12 during the 1996-1997 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(b) Except as specified in paragraph (c), for persons enrolled in grades 7, 8, and 12 during the 1997-1998 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(c) Except as specified in paragraph (e), for persons enrolled in grades 7, 8, 9, and through 12 during the 1998-1999 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(d) For persons enrolled in grades 7, 8, 9, 10, and 12 during the 1999-2000 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(e) For persons enrolled in grades 7 through 12 during the 2000-2001 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(f) For persons enrolled in grades 7 through 12 during the 1996-1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(c) A person who has received at least three doses of tetanus and diphtheria toxoids, with the most recent dose given after age six and before age 11, is not required to have additional immunization against diphtheria and tetanus until ten years have elapsed from the person's most recent dose of tetanus and diphtheria toxoid.

Sec. 23. Minnesota Statutes 1996, section 144.29, is amended to read:

#### 144.29 HEALTH RECORDS; CHILDREN OF SCHOOL AGE.

It shall be the duty of every school nurse, school physician, school attendance officer, superintendent of schools, principal, teacher, and of the persons charged with the duty of compiling and keeping the school census records, to cause a permanent public health record to be kept for each child of school age. Such record shall be kept in such form that it may be transferred with the child to any school which the child shall attend within the state and transferred to the commissioner when the child ceases to attend school. It shall contain a record of such health matters as shall be proscribed by the commissioner, and of all mental and physical defects and handicaps which might permanently cripple or handicap the child student health data as defined in section 13.32, subdivision 2, paragraph (a), and shall be classified as private data as defined in section 13.32, subdivision 3. Nothing in sections 144.29 to 144.32 shall be construed to require any

New language is indicated by underline, deletions by ~~strikeout~~.



**Sec. 47. REPEALER.**

Minnesota Statutes 1996, sections 13.072, subdivision 3; and 13.71, subdivisions 18, 19, 20, and 21, are repealed.

**Sec. 48. EFFECTIVE DATE.**

Section 24 is effective retroactive to January 1, 1997. Sections 29 to 42 are effective the day following final enactment. Section 43 is effective for deeds executed and delivered, and mortgages submitted for recording, on or after August 1, 1997.

Presented to the governor June 27, 1997

Signed by the governor June 30, 1997, 9:45 a.m.

**CHAPTER 4—H.F.No. 1**

*An act relating to education; kindergarten through grade 12; providing for general education; special programs; lifework development; education organization, cooperation, and facilities; education excellence; academic performance; education policy issues; libraries; technology; state agencies; conforming and technical amendments; school bus safety; tax deduction and credit; appropriating money; amending Minnesota Statutes 1996, sections 12.21, subdivision 3; 120.0111; 120.062, subdivisions 3, 6, 7, 9, and 11; 120.0621, subdivisions 5a, 6, and by adding a subdivision; 120.064, subdivisions 3, 8, 10, 20a, and by adding a subdivision; 120.101, subdivisions 5, 5c, and by adding a subdivision; 120.1701, subdivision 3; 120.181; 121.15, subdivisions 6, 7, and by adding subdivisions; 121.602, subdivisions 1, 2, and 4; 121.611; 121.615, subdivisions 2, 3, 5, 6, 7, 8, 9, and 10; 121.703, subdivision 3; 121.904, subdivision 4a; 123.35, subdivision 8, and by adding a subdivision; 123.3514, subdivisions 4, 4a, 4c, 4e, 6c, 8, and by adding subdivisions; 123.39, subdivision 6; 123.70, subdivisions 5, 7, and 10; 123.799, subdivision 1; 123.7991, subdivisions 1 and 2; 123.951; 123.972, subdivision 5; 124.155, subdivisions 1 and 2; 124.17, subdivisions 1d, 4, and by adding subdivisions; 124.193; 124.195, subdivisions 2, 7, 10, 11, and by adding a subdivision; 124.225, subdivisions 1, 13, 14, 15, 16, and 17; 124.226, subdivision 10; 124.2445; 124.2455; 124.248, subdivisions 3, 4, and by adding subdivisions; 124.26, subdivision 1b; 124.2613, subdivisions 3, 4, and 6; 124.2727, subdivision 6d; 124.273, subdivisions 1d, 1e, 1f, and 5; 124.276, by adding a subdivision; 124.312, subdivisions 4 and 5; 124.313; 124.314, subdivisions 1 and 2; 124.3201, subdivisions 1, 2, 3, and 4; 124.321, subdivision 1; 124.323, subdivisions 1 and 2; 124.42, subdivision 4; 124.431, subdivisions 2 and 11; 124.45; 124.481; 124.574, subdivisions 1, 2d, 2f, 5, 6, and 9; 124.83, subdivisions 1 and 2; 124.86, subdivision 2, and by adding a subdivision; 124.91, subdivisions 1 and 5; 124.912, subdivisions 1, 2, 3, and 6; 124.916, subdivisions 1, 2, and 3; 124.918, subdivision 6; 124.95, subdivision 2; 124.961; 124A.03, subdivisions 1c and 1g; 124A.04, subdivision 2; 124A.22, subdivisions 1, 2, as amended, 3, 6, 6a, 8a, 10, 11, 13, 13b, 13d, and by adding a subdivision; 124A.225, subdivision 1; 124A.23, subdivisions 1, 2, 3, and 5; 124A.26, subdivision 1; 124A.28; 124C.45, subdivision 1a; 124C.46, subdivisions 1 and 2; 124C.498, subdivisions 2 and 3; 125.05, subdivisions 1c and 2; 125.12, subdivision 14; 126.22, subdivisions 2, 3, 3a, and 8; 126.23, subdivision 1; 126.77, subdivision 1; 127.26; 127.27, subdivisions 5, 6, 7, 8, 10, and by adding a subdivision; 127.281; 127.29; 127.30, subdivisions 1, 2, 3, and by adding a subdivision; 127.31, subdivisions 2, 7, 8, 13, 14, and 15; 127.311; 127.32; 127.33; 127.36; 127.37; 127.38; 128A.02, by adding a subdivision; 128B.10, subdivision 1; 128C.02, subdivision 2, and by adding a subdivision; 128C.12,*

**New language is indicated by underline, deletions by ~~strikeout~~.**

1997 1Sp1997 c 4 art 6 s 8-10; (Enacted July 1, 1997)

3207

LAWS of MINNESOTA  
1997 FIRST SPECIAL SESSION

Ch. 4

**Sec. 47. REPEALER.**

Minnesota Statutes 1996, sections 13.072, subdivision 3; and 13.71, subdivisions 18, 19, 20, and 21, are repealed.

**Sec. 48. EFFECTIVE DATE.**

Section 24 is effective retroactive to January 1, 1997. Sections 29 to 42 are effective the day following final enactment. Section 43 is effective for deeds executed and delivered, and mortgages submitted for recording, on or after August 1, 1997.

Presented to the governor June 27, 1997

Signed by the governor June 30, 1997, 9:45 a.m.

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**CHAPTER 4—H.F.No. 1**

*An act relating to education; kindergarten through grade 12; providing for general education; special programs; lifework development; education organization, cooperation, and facilities; education excellence; academic performance; education policy issues; libraries; technology; state agencies; conforming and technical amendments; school bus safety; tax deduction and credit; appropriating money; amending Minnesota Statutes 1996, sections 12.21, subdivision 3; 120.0111; 120.062, subdivisions 3, 6, 7, 9, and 11; 120.0621, subdivisions 5a, 6, and by adding a subdivision; 120.064, subdivisions 3, 8, 10, 20a, and by adding a subdivision; 120.101, subdivisions 5, 5c, and by adding a subdivision; 120.1701, subdivision 3; 120.181; 121.13, subdivisions 6, 7, and by adding subdivisions; 121.602, subdivisions 1, 2, and 4; 121.611; 121.615, subdivisions 2, 3, 5, 6, 7, 8, 9, and 10; 121.703, subdivision 3; 121.904, subdivision 4a; 123.35, subdivision 8, and by adding a subdivision; 123.3514, subdivisions 4, 4a, 4c, 4e, 6c, 8, and by adding subdivisions; 123.39, subdivision 6; 123.70, subdivisions 5, 7, and 10; 123.799, subdivision 1; 123.7991, subdivisions 1 and 2; 123.951; 123.972, subdivision 5; 124.155, subdivisions 1 and 2; 124.17, subdivisions 1d, 4, and by adding subdivisions; 124.193; 124.195, subdivisions 2, 7, 10, 11, and by adding a subdivision; 124.225, subdivisions 1, 13, 14, 15, 16, and 17; 124.226, subdivision 10; 124.2445; 124.2455; 124.248, subdivisions 3, 4, and by adding subdivisions; 124.26, subdivision 1b; 124.2613, subdivisions 3, 4, and 6; 124.2727, subdivision 6d; 124.273, subdivisions 1d, 1e, 1f, and 5; 124.276, by adding a subdivision; 124.312, subdivisions 4 and 5; 124.313; 124.314, subdivisions 1 and 2; 124.3201, subdivisions 1, 2, 3, and 4; 124.321, subdivision 1; 124.323, subdivisions 1 and 2; 124.42, subdivision 4; 124.431, subdivisions 2 and 11; 124.45; 124.481; 124.574, subdivisions 1, 2d, 2f, 5, 6, and 9; 124.83, subdivisions 1 and 2; 124.86, subdivision 2, and by adding a subdivision; 124.91, subdivisions 1 and 5; 124.912, subdivisions 1, 2, 3, and 6; 124.916, subdivisions 1, 2, and 3; 124.918, subdivision 6; 124.95, subdivision 2; 124.961; 124A.03, subdivisions 1c and 1g; 124A.04, subdivision 2; 124A.22, subdivisions 1, 2, as amended, 3, 6, 6a, 8a, 10, 11, 13, 13b, 13d, and by adding a subdivision; 124A.225, subdivision 1; 124A.23, subdivisions 1, 2, 3, and 5; 124A.26, subdivision 1; 124A.28; 124C.45, subdivision 1a; 124C.46, subdivisions 1 and 2; 124C.498, subdivisions 2 and 3; 125.05, subdivisions 1c and 2; 125.12, subdivision 14; 126.22, subdivisions 2, 3, 3a, and 8; 126.23, subdivision 1; 126.77, subdivision 1; 127.26; 127.27, subdivisions 5, 6, 7, 8, 10, and by adding a subdivision; 127.281; 127.29; 127.30, subdivisions 1, 2, 3, and by adding a subdivision; 127.31, subdivisions 2, 7, 8, 13, 14, and 15; 127.311; 127.32; 127.33; 127.36; 127.37; 127.38; 128A.02, by adding a subdivision; 128B.10, subdivision 1; 128C.02, subdivision 2, and by adding a subdivision; 128C.12,*

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The senior high site councils in the independent school district No. 833, south Washington county, shall develop and implement a model four-period day curriculum during the 1997-1998 and 1998-1999 school years. The site councils shall seek input from parents, teachers, and students in the design and implementation of the four-period day model. If one or more site councils determine a four-period day model is not desirable, the site council shall report its recommendations back to the board and need not proceed with the development and implementation of the model.

The south Washington county school board shall develop a system for monitoring and evaluating the development and implementation of the four-period day models at its high schools. The board shall monitor and evaluate: (1) the process used by the site council to discuss, develop, and implement a four-period day; and (2) the academic outcomes of students after the four-period day has been fully implemented. To evaluate the academic outcomes of students, the district shall compare the academic achievement of its high school students with the achievement of students in similar school districts using a six-period day model. The board shall report the results of its evaluation to the commissioner of children, families, and learning on August 30, 1998, and August 30, 1999. The reports shall include a detailed description of the site-based, decision-making model that was used to develop and implement the four-period day and the steps that were taken to successfully implement and evaluate the model.

Independent school district No. 833, South Washington County, shall complete a class size mitigation pilot project to explore options for improving learning outcomes in elementary and junior high classrooms with 30 or more students. The options for mitigating the adverse impacts of large class sizes shall be developed and implemented using a site-based management decision-making process. The district shall report the results of its pilot project to the commissioner of children, families, and learning by August 30, 1998.

**Sec. 29. REPEALER.**

Minnesota Statutes 1996, section 121.11, subdivision 8, is repealed.

**Sec. 30. EFFECTIVE DATE.**

If this act is enacted on or after July 1, 1997, sections 1 to 29 are effective the day following final enactment.

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**ARTICLE 6**

**ACADEMIC PERFORMANCE**

Section 1. Minnesota Statutes 1996, section 120.101, subdivision 5, is amended to read:

**Subd. 5. AGES AND TERMS.** For the 1988-1989 school year and the school years thereafter, Every child between seven and 16 years of age shall receive instruction for at

New language is indicated by underline, deletions by ~~strikeout~~.

tricts in implementing an educational effectiveness program. In selecting an agency to provide assistance to the school districts, the department shall consider such factors as support of the proposal by the participating school districts and the extent to which the proposal provides for participation by school district staff. The department shall evaluate the performance of the service providers. The staff development shall be facilitated by building level decision-making teams. The staff development shall include clarification of individual school missions, goals, expectations, enhancement of collaborative planning and collegial relationships among the building staff, improvement of curriculum, assessment, instructional and organizational skills, improvement of financial and management skills, and planning of other staff development programs.

Sec. 7. Minnesota Statutes 1996, section 123.35, subdivision 8, is amended to read:

Subd. 8. The board may establish and maintain public evening schools and adult and continuing education programs and such evening schools and adult and continuing education programs when so maintained shall be available to all persons over 16 years of age through the 1999-2000 school year and over 18 years of age beginning with the 2000-2001 school year who, from any cause, are unable to attend the full-time elementary or secondary schools of such district.

Sec. 8. Minnesota Statutes 1996, section 123.70, subdivision 5, is amended to read:

Subd. 5. If a person transfers from one elementary or secondary school to another, the person shall be allowed school board of a public school district or the administrator of a nonpublic school may allow the person up to a maximum of 30 days to submit one or more of the statements as specified in subdivision 1 or 3, during which time the person may enroll in and attend the school. If a person enrolls in a child care facility in which at least 75 percent of children in the facility participate on a one-time only or occasional basis to a maximum of 45 hours per child, per month, or is placed in a facility by a crisis nursery, the person shall be exempt from all requirements of this section for up to five consecutive days, starting from the first day of attendance.

Sec. 9. Minnesota Statutes 1996, section 123.70, subdivision 7, is amended to read:

Subd. 7. Each school or child care facility shall maintain on file immunization records for all persons in attendance that contain the information required by subdivisions 1, 2, and 3. The school shall maintain the records for at least five years after the person attains the age of majority. The department of health and the board of health, as defined in section 145A.02, subdivision 2, in whose jurisdiction the school or child care facility is located, shall have access to the files maintained pursuant to this subdivision. When a person transfers to another elementary or secondary school or child care facility, the administrator or other person having general control and supervision of the school or child care facility shall assist the person's parent or guardian in the transfer of the immunization file to the person's new school or child care facility within 30 days of the transfer. Upon the request of a public or private post-secondary educational institution, as defined in section 135A.14, the administrator or other person having general control or supervision of a school shall assist in the transfer of a student's immunization file to the post-secondary institution.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 10. Minnesota Statutes 1996, section 123.70, subdivision 10, is amended to read:

Subd. 10. A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(a) For persons enrolled in grades 7 and 12 during the 1996–1997 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(b) Except as specified in paragraph (c), for persons enrolled in grades 7, 8, and 12 during the 1997–1998 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(c) Except as specified in paragraph (e), for persons enrolled in grades 7, 8, 9, and through 12 during the 1998–1999 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(d) for persons enrolled in grades 7, 8, 9, 10, and 12 during the 1999–2000 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(e) for persons enrolled in grades 7 through 12 during the 2000–2001 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(f) (d) For persons enrolled in grades 7 through 12 during the 1996–1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(c) A person who has received at least three doses of tetanus and diphtheria toxoids, with the most recent dose given after age six and before age 11, is not required to have additional immunization against diphtheria and tetanus until ten years have elapsed from the person's most recent dose of tetanus and diphtheria toxoid.

Sec. 11. Minnesota Statutes 1996, section 124.26, subdivision 1b, is amended to read:

Subd. 1b. **PROGRAM REQUIREMENTS.** An adult basic education program is a day or evening program offered by a district that is for people over 16 years of age through the 1999–2000 school year and over 18 years of age beginning with the 2000–2001 school year who do not attend an elementary or secondary school. The program offers academic instruction necessary to earn a high school diploma or equivalency certificate. Tuition and fees may not be charged to a learner for instruction paid under this section, except for a security deposit to assure return of materials, supplies, and equipment.

Subd. 11. NETT LAKE COMMUNITY CENTER. For a grant to independent school district No. 707, Nett Lake, for maintenance replacement funds to cover delayed lease payments for the collaborative community center:

\$70,000      .....      1998

Subd. 12. HIV EDUCATION TRAINING SITES. For regional training sites for HIV education in schools:

\$200,000      .....      1998

This appropriation is contingent on a matching grant of \$100,000 in federal funds.

This appropriation is available until June 30, 1999.

Subd. 13. WILLMAR. For a grant to independent school district No. 347, Willmar:

\$200,000      .....      1998

This appropriation shall be used to improve community understanding of the cultures within the community, improve communication between the district and the Latino community, improve parental involvement in the school, to use mediation to resolve conflict in the school and community, and to assist surrounding communities and districts in achieving these goals.

This appropriation is available only if the federal lawsuit against the district is dismissed for settlement.

This appropriation is available until June 30, 1999.

Subd. 14. PSEO REPLACEMENT AID. For PSEO replacement aid:

\$12,000      .....      1998

The 1998 appropriation includes \$12,000 for 1997 and \$0 for 1998.

**Sec. 21. REPEALER.**

Minnesota Statutes 1996, sections 121.602, subdivisions 3 and 5; 124.177; and 124.276, subdivision 2, are repealed.

**Sec. 22. EFFECTIVE DATE.**

(a) Section 3 is effective for the 1998–1999 school year.

(b) If this act is enacted on or after July 1, 1997, all sections in this article except for that section listed in paragraph (a) are effective the day following final enactment.

1998 1998 c 305 s 1-4; (Approved March 23, 1998)

371

LAWS of MINNESOTA for 1998

Ch. 305

(e) If the amount of the credit under this subdivision exceeds the taxpayer's tax liability under this chapter, the commissioner shall refund the excess.

(f) To claim a credit under this subdivision, the taxpayer must attach a copy of the property tax statement and certificate of rent paid, as applicable, and provide any additional information the commissioner requires.

(g) An amount sufficient to pay refunds under this subdivision is appropriated to the commissioner from the general fund.

(h) This credit applies to taxable years beginning after December 31, 1996, and before January 1, 1998.

(i) Payment of the credit under this section is subject to Minnesota Statutes, chapter 270A, and any other provision applicable to refunds under Minnesota Statutes, chapter 290.

## Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor March 17, 1998

Signed by the governor March 18, 1998, 4:17 p.m.

## CHAPTER 305—S.F.No. 2372

*An act relating to health; requiring hepatitis B immunization for children; amending Minnesota Statutes 1996, section 123.70, subdivisions 1, 2, and 4; Minnesota Statutes 1997 Supplement, section 123.70, subdivision 10.*

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1996, section 123.70, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivisions 3 and 4, and 10, no person over two months old may be allowed to enroll or remain enrolled in any elementary or secondary school or child care facility in this state until the person has submitted to the administrator or other person having general control and supervision of the school or child care facility, one of the following statements:

(1) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunization, consistent with medically acceptable standards and with the provisions of subdivision 10, against measles after having attained the age of 12 months, rubella, diphtheria, tetanus, pertussis, polio, mumps, and haemophilus influenza type b, and hepatitis B; or

(2) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunizations, consistent with medically acceptable standards and with the provisions of subdivision 10, against measles after having attained

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the age of 12 months, rubella, mumps, and haemophilus influenza type b and that the person has commenced a schedule of immunizations for diphtheria, tetanus, pertussis, and polio, and hepatitis B and which indicates the month and year of each immunization received.

Sec. 2. Minnesota Statutes 1996, section 123.70, subdivision 2, is amended to read:

Subd. 2. No person who has commenced a treatment schedule of immunization pursuant to subdivision 1, clause (2), may remain enrolled in any child care facility, elementary, or secondary school in this state after 18 months of enrollment unless there is submitted to the administrator, or other person having general control and supervision of the school or child care facility, a statement from a physician or a public clinic which provides immunizations that the person has completed the primary schedule of immunizations for diphtheria, tetanus, pertussis, and polio, and hepatitis B and in which the month and year of each additional immunization received is included. For a child less than seven years of age, a primary schedule of immunizations shall consist of four doses of vaccine for diphtheria, tetanus, and pertussis and three doses of vaccine for poliomyelitis and hepatitis B. For a child seven years of age or older, a primary schedule of immunizations shall consist of three doses of vaccine for diphtheria, tetanus, and polio, and hepatitis B.

Sec. 3. Minnesota Statutes 1996, section 123.70, subdivision 4, is amended to read:

Subd. 4. (a) A person who is enrolling or enrolled in an elementary or secondary school or child care facility may substitute a statement from the emancipated person or a parent or guardian if the person is a minor child in lieu of the statement from a physician or public clinic which provides immunizations. If the statement is from a parent or guardian or emancipated person, the statement shall indicate the month and year of each immunization given.

(b) In order for the statement to be acceptable for a person who is enrolling in an elementary school and who is six years of age or younger, it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; and; no less than four doses of vaccine for poliomyelitis, unless the third dose was given after the fourth birthday, then three doses are minimum; and; no less than five doses of vaccine for diphtheria, tetanus, and pertussis, unless the fourth dose was given after the fourth birthday, then four doses are minimum; and no less than three doses of vaccine for hepatitis B.

(c) In order for the statement to be consistent with subdivision 10 and acceptable for a person who is enrolling in an elementary or secondary school and is age seven through age 19, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination and consistent with subdivision 10, and no less than three doses of vaccine for poliomyelitis, diphtheria, and tetanus, and hepatitis B.

(d) In order for the statement to be acceptable for a person who is enrolling in a secondary school, and who was born after 1956 and is 20 years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than one dose of vaccine for diphtheria and tetanus within the preceding ten years.

(e) In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is at least 15 months old but who has not reached five years of age, it



must indicate that the following were given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; no less than one dose of vaccine for haemophilus influenza type b; no less than four doses of vaccine for diphtheria, tetanus, and pertussis; and no less than three doses of vaccine for poliomyelitis.

(f) In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is five or six years of age, it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; no less than four doses of vaccine for diphtheria, tetanus, and pertussis; and no less than three doses of vaccine for poliomyelitis.

(g) In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is seven years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination and consistent with subdivision 10, and no less than three doses of vaccine for poliomyelitis, diphtheria, and tetanus.

(h) The commissioner of health, on finding that any of the above requirements are not necessary to protect the public's health, may suspend for one year that requirement.

Sec. 4. Minnesota Statutes 1997 Supplement, section 123.70, subdivision 10, is amended to read:

Subd. 10. A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(a) For persons enrolled in grades 7 and 12 during the 1996–1997 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(b) Except as specified in paragraph (c), for persons enrolled in grades 7, 8, and 12 during the 1997–1998 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(c) Except as specified in paragraph (c), for persons enrolled in grades 7 through 12 during the 1998–1999 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(d) For persons enrolled in grades 7 through 12 during the 1996–1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(e) A person who has received at least three doses of tetanus and diphtheria toxoids, with the most recent dose given after age six and before age 11, is not required to have additional immunization against diphtheria and tetanus until ten years have elapsed from the person's most recent dose of tetanus and diphtheria toxoid.

(f) The requirement for hepatitis B vaccination shall apply to persons enrolling in kindergarten beginning with the 2000–2001 school term.

(g) The requirement for hepatitis B vaccination shall apply to persons enrolling in kindergarten through grade 7 beginning with the 2007–2008 school term.

New language is indicated by underline, deletions by ~~strikeout~~.

Presented to the governor March 19, 1998

Signed by the governor March 23, 1998, 10:32 a.m.

# CHAPTER 306—S.F.No. 3016

*An act relating to the environment; authorizing acceptance of dump materials at certain qualified landfills; amending Minnesota Statutes 1997 Supplement, section 115B.39, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 115B.*

## BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1997 Supplement, section 115B.39, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** (a) In addition to the definitions in this subdivision, the definitions in sections 115A.03 and 115B.02 apply to sections 115B.39 to 115B.445, except as specifically modified in this subdivision.

(b) "Cleanup order" means a consent order between responsible persons and the agency or an order issued by the United States Environmental Protection Agency under section 106 of the federal Superfund Act.

(c) "Closure" means actions to prevent or minimize the threat to public health and the environment posed by a mixed municipal solid waste disposal facility that has stopped accepting waste by controlling the sources of releases or threatened releases at the facility. "Closure" includes removing contaminated equipment and liners; applying final cover; grading and seeding final cover; installing wells, borings, and other monitoring devices; constructing groundwater and surface water diversion structures; and installing gas control systems and site security systems, as necessary. The commissioner may authorize use of final cover that includes processed materials that meet the requirements in Code of Federal Regulations, title 40, section 503.32, paragraph (a).

(d) "Closure upgrade" means construction activity that will, at a minimum, modify an existing cover so that it satisfies current rule requirements for mixed municipal solid waste land disposal facilities.

(e) "Contingency action" means organized, planned, or coordinated courses of action to be followed in case of fire, explosion, or release of solid waste, waste by-products, or leachate that could threaten human health or the environment.

(~~e~~) (f) "Corrective action" means steps taken to repair facility structures including liners, monitoring wells, separation equipment, covers, and aeration devices and to bring the facility into compliance with design, construction, groundwater, surface water, and air emission standards.

(~~f~~) (g) "Decomposition gases" means gases produced by chemical or microbial activity during the decomposition of solid waste.

(h) "Dump materials" means nonhazardous mixed municipal solid wastes disposed at a Minnesota waste disposal site other than a qualified facility prior to 1973.

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1998 1998 c 397 art 3 s 54-56,103

Ch. 396

LAWS of MINNESOTA for 1998

1240

section, "sex offender" means a person who is required to register under Minnesota Statutes, section 243.166, the sex offender registration act.

#### Sec. 9. EFFECTIVE DATE.

Sections 1 to 7 are effective the day following final enactment and apply to offenders released from confinement, sentenced, or accepted for supervision on or after that date, or who move to a new address on or after that date. Section 8 is effective July 1, 1998.

Presented to the governor April 10, 1998

Signed by the governor April 20, 1998, 11:17 a.m.

### CHAPTER 397—S.F.No. 2082

*An act relating to education; modifying and making technical amendments to kindergarten through grade 12 education statutes; amending Minnesota Statutes 1996, sections 120.02, subdivisions 1, 13, 14, 15, and 18; 120.06, subdivisions 1 and 2a; 120.062, subdivisions 4, 5, and 8a; 120.0621, as amended; 120.064, subdivisions 4, 4a, 5, 7, 9, 11, 12, 13, 14, 15, 17, 19, 20, 21, 22, and 24; 120.075, subdivisions 1, 2, 3a, and 4; 120.0751, subdivisions 1, 2, 3, 4, and 5; 120.0752, subdivisions 1, 2, and 3; 120.08; 120.101, subdivisions 5a, 7, 8, 9, and 10; 120.102, subdivisions 1, 3, and 4; 120.103, subdivisions 3, 4, 5, and 6; 120.11; 120.14; 120.17, subdivisions 1, 1b, 2, 3, 3a, 3b, 3d, 4, 4a, 5, 5a, 6, 7, 7a, 8a, 9, 10, 16, 18, and 19; 120.1701, subdivisions 2, 4, 5, 6, 7, 8, 8a, 9, 10, 11, 12, 15, 17, 19, 20, 21, and 22; 120.172, subdivision 2; 120.173, subdivisions 1, 3, 4, and 6; 120.181; 120.182; 120.183; 120.185; 120.188; 120.189; 120.190; 120.59; 120.60; 120.61; 120.62; 120.63; 120.64; 120.66; 120.73, subdivisions 1, 2a, 2b, 3, and 4; 120.74; 120.75; 120.76; 120.80; 121.11, subdivision 7; 121.115, subdivisions 1 and 2; 121.155; 121.201; 121.203, subdivision 1; 121.207, subdivisions 2 and 3; 121.585, subdivisions 2, 6, and 7; 121.615, subdivision 11; 121.704; 121.705, subdivision 2; 121.706; 121.707, subdivisions 3, 4, 5, 6, and 7; 121.708; 121.710, subdivisions 2 and 3; 121.831, subdivisions 6, 7, 8, 9, 10, 11, and 12; 121.835, subdivisions 4, 5, 7, and 8; 121.8355, subdivisions 2, 3, 5, and 6; 121.88, subdivisions 2, 3, 4, 6, 7, and 9; 121.882, subdivisions 1, 2b, 3, 7, 7a, 8, and 9; 121.885, subdivisions 1 and 4; 121.904, subdivisions 1, 2, 3, 4c, and 13; 121.906; 121.908; 121.911; 121.912, subdivisions 1a, 1b, 2, 3, 5, and 6; 121.9121, subdivisions 2 and 4; 121.914, subdivisions 2, 3, 4, 5, 6, 7, and 8; 121.917; 122.01; 122.02; 122.03; 122.21; 122.22, subdivisions 1, 4, 5, 6, 7a, 9, 13, 14, 18, 20, and 21; 122.23, subdivisions 2, 2b, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 16c, 18, 18a, and 20; 122.241; 122.242, subdivisions 1, 3, 8, and 9; 122.243; 122.245, subdivision 2; 122.246; 122.247, subdivisions 2 and 2a; 122.248; 122.25, subdivisions 2 and 3; 122.32; 122.34; 122.355; 122.41; 122.43; 122.44; 122.45, subdivisions 2 and 3a; 122.46; 122.47; 122.48; 122.531, subdivisions 2c, 5a, and 9; 122.5311, subdivision 1; 122.532, subdivisions 2, 3a, and 4; 122.535, subdivisions 2, 3, 4, 5, and 6; 122.541, subdivisions 1, 2, 4, 5, 6, and 7; 122.893; 122.91, subdivisions 2, 2a, 3a, 4, and 6; 122.93, subdivisions 3 and 8; 122.95, subdivisions 1, 1a, 2, and 4; 123.11, subdivisions 1, 2, 3, 4, and 7; 123.12; 123.13; 123.15; 123.33, subdivisions 1, 2, 2a, 3, 4, 6, 7, 11, and 11a; 123.335; 123.34, subdivisions 1, 2, 7, 8, 9, 9a, and 10; 123.35, subdivisions 1, 2, 4, 5, 8a, 9b, 12, 13, 15, 19a, 19b, 20, and 21; 123.351, subdivisions 1, 3, 4, 5, 8, and 8a; 123.3513; 123.3514, subdivisions 3, 4b, 4d, 5, 6, 6b, 7a, and 7b; 123.36, subdivisions 1, 5, 10, 11, 13, and 14; 123.37, subdivisions 1, 1a, and 1b; 123.38, subdivisions 1, 2, 2a, 2b, and 3; 123.39, subdivisions 1, 2, 8, 8a, 8b, 8c, 8d, 8e, 9a, 11, 12, 13, 14, 15, and 16; 123.40, subdivisions 1, 2, and 8; 123.41; 123.582, subdivision 2; 123.63; 123.64; 123.66; 123.681; 123.70, subdivisions 2, 4, and 8; 123.702, subdivisions 1, 1b, 2, 3, 4, 4a, 5, 6, and 7; 123.704; 123.7045; 123.71; 123.72; 123.75, subdivisions 2, 3, and 5; 123.751, subdivisions 1, 2, and 3; 123.76; 123.78, subdivisions 1a and 2; 123.79, subdivision 1;*

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1333

LAWS of MINNESOTA for 1998

Ch. 397, Art. 3

<u>123.3514,</u>	<u>subd. 1</u>	<u>120B.94,</u>	<u>subd. 1</u>
	<u>subd. 2</u>		<u>subd. 2</u>
	<u>subd. 3</u>		<u>subd. 3</u>
	<u>subd. 3a</u>		<u>subd. 4</u>
	<u>subd. 4</u>		<u>subd. 5</u>
	<u>subd. 4a</u>		<u>subd. 6</u>
	<u>subd. 4b</u>		<u>subd. 7</u>
	<u>subd. 4c</u>		<u>subd. 8</u>
	<u>subd. 4d</u>		<u>subd. 9</u>
	<u>subd. 4e</u>		<u>subd. 10</u>
	<u>subd. 5</u>		<u>subd. 11</u>
	<u>subd. 6</u>		<u>subd. 12</u>
	<u>subd. 6a</u>		<u>subd. 13</u>
	<u>subd. 6b</u>		<u>subd. 14</u>
	<u>subd. 6c</u>		<u>subd. 15</u>
	<u>subd. 6d</u>		<u>subd. 16</u>
	<u>subd. 6e</u>		<u>subd. 17</u>
	<u>subd. 7</u>		<u>subd. 18</u>
	<u>subd. 7a</u>		<u>subd. 19</u>
	<u>subd. 7b</u>		<u>subd. 20</u>
	<u>subd. 8</u>		<u>subd. 21</u>
	<u>subd. 9</u>		<u>subd. 22</u>
	<u>subd. 10</u>		<u>subd. 23</u>
	<u>subd. 11</u>		<u>subd. 24</u>
	<u>subd. 11a</u>		<u>subd. 25</u>
<u>120.80</u>		<u>120B.95</u>	
<u>126.56,</u>	<u>subd. 1</u>	<u>120B.96,</u>	<u>subd. 1</u>
	<u>subd. 2</u>		<u>subd. 2</u>
	<u>subd. 3</u>		<u>subd. 3</u>
	<u>subd. 4</u>		<u>subd. 4</u>
	<u>subd. 4a</u>		<u>subd. 5</u>
	<u>subd. 5</u>		<u>subd. 6</u>
	<u>subd. 6</u>		<u>subd. 7</u>
	<u>subd. 7</u>		<u>subd. 8</u>

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### ARTICLE 3

#### CHAPTER 120C

#### COMMUNITY EDUCATION

##### Section 1. [120C.01] DEFINITIONS.

For the purposes of this chapter, the words defined in section 120.02 have the same meaning.

Sec. 2. Minnesota Statutes 1996, section 121.201, is amended to read:

##### 121.201 HEARING IMPAIRED EDUCATIONAL SUPPORT SERVICES.

New language is indicated by underline, deletions by ~~strikeout~~.

ment must establish guidelines that list barriers to learning and development affecting children served by early childhood family education programs.

Sec. 51. Minnesota Statutes 1996, section 121.885, subdivision 1, is amended to read:

Subdivision 1. **SERVICE-LEARNING AND WORK-BASED LEARNING PROGRAMS STUDY.** The governor's workforce development council ~~shall~~ must assist the commissioner of children, families, and learning in studying how to combine community service activities and service-learning with work-based learning programs.

Sec. 52. Minnesota Statutes 1996, section 121.885, subdivision 4, is amended to read:

Subd. 4. **PROGRAMS FOLLOWING YOUTH COMMUNITY SERVICE.** (a) The Minnesota commission on national and community service in cooperation with the governor's workforce development council, the commissioner and the higher education services office, shall provide for those participants who successfully complete youth community service under sections 121.704 to 121.709, the following:

(1) for those who have a high school diploma or its equivalent, an opportunity to participate in a youth apprenticeship program at a community or technical college; and

(2) for those who are post-secondary students, an opportunity to participate in an educational program that supplements post-secondary courses leading to a degree or a statewide credential of academic and occupational proficiency.

(b) Participants who successfully complete a youth community service program under sections 121.704 to 121.710 are eligible to receive an education voucher as provided under section 121.707, subdivision 4. The voucher recipient may apply the voucher toward the cost of the recipient's tuition and other education-related expenses at a post-secondary school under paragraph (a).

(c) The governor's workforce development council, in cooperation with the board of trustees of the Minnesota state colleges and universities, ~~shall~~ must establish a mechanism to transfer credit earned in a youth apprenticeship program between the technical colleges and other post-secondary institutions offering applied associate degrees.

Sec. 53. Minnesota Statutes 1997 Supplement, section 123.35, subdivision 8, is amended to read:

Subd. 8. **EVENING SCHOOLS; ADULT AND CONTINUING EDUCATION.** The board may establish and maintain public evening schools and adult and continuing education programs and such. The evening schools and adult and continuing education programs ~~when so maintained shall by the board must~~ be available to all persons over 16 years of age who, from any cause, ~~are unable to attend~~ the full-time elementary or secondary schools of such district.

Sec. 54. Minnesota Statutes 1996, section 123.70, subdivision 2, is amended to read:

Subd. 2. **SCHEDULE OF IMMUNIZATIONS.** No person who has commenced a treatment schedule of immunization pursuant to subdivision 1, clause (2), may remain enrolled in any child care facility, elementary, or secondary school in this state after 18 months of enrollment unless there is submitted to the administrator, or other person hav-

ing general control and supervision of the school or child care facility, a statement from a physician or a public clinic which provides immunizations that the person has completed the primary schedule of immunizations for diphtheria, tetanus, pertussis, and polio and in which the month and year of each additional immunization received is included. The statement must include the month and year of each additional immunization received. For a child less than seven years of age, a primary schedule of immunizations shall consist of four doses of vaccine for diphtheria, tetanus, and pertussis and three doses of vaccine for poliomyelitis. For a child seven years of age or older, a primary schedule of immunizations shall consist of three doses of vaccine for diphtheria, tetanus, and polio.

Sec. 55. Minnesota Statutes 1996, section 123.70, subdivision 4, is amended to read:

Subd. 4. **SUBSTITUTE IMMUNIZATION STATEMENT.** A person who is enrolling or enrolled in an elementary or secondary school or child care facility may substitute a statement from the emancipated person or a parent or guardian if the person is a minor child in lieu of the statement from a physician or public clinic which provides immunizations. If the statement is from a parent or guardian or emancipated person, the statement shall must indicate the month and year of each immunization given. In order for the statement to be acceptable for a person who is enrolling in an elementary school and who is six years of age or younger, it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than four doses of vaccine for poliomyelitis, unless the third dose was given after the fourth birthday, then three doses are minimum, and no less than five doses of vaccine for diphtheria, tetanus, and pertussis, unless the fourth dose was given after the fourth birthday, then four are minimum. In order for the statement to be acceptable for a person who is enrolling in an elementary or secondary school and is age seven through age 19, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination and consistent with subdivision 10, and no less than three doses of vaccine for poliomyelitis, diphtheria, and tetanus.

In order for the statement to be acceptable for a person who is enrolling in a secondary school, and who was born after 1956 and is 20 years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than one dose of vaccine for diphtheria and tetanus within the preceding ten years. In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is at least 15 months old but who has not reached five years of age, it must indicate that the following were given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; no less than one dose of vaccine for haemophilus influenza type b; no less than four doses of vaccine for diphtheria, tetanus, and pertussis; and no less than three doses of vaccine for poliomyelitis. In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is five or six years of age, it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, no less than four doses of vaccine for diphtheria, tetanus, and pertussis, and no less than three doses of vaccine for poliomyelitis. In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is seven years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination and consistent with sub-

division 10, and no less than three doses of vaccine for poliomyelitis, diphtheria, and tetanus. The commissioner of health, on finding that any of the above requirements are not necessary to protect the public's health, may suspend for one year that requirement.

Sec. 56. Minnesota Statutes 1996, section 123.70, subdivision 8, is amended to read:

Subd. 8. **REPORT.** The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner of children, families, and learning on all persons enrolled in the school, except that. The superintendent of each school district shall file a report with the commissioner of children, families, and learning for all persons within the district receiving instruction in a home school in compliance with sections 120.101 and 120.102. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, and 4 to the superintendent of the school district in which the person resides by October 1 of each school year. The school report ~~shall~~ must be prepared on forms developed jointly by the commissioner of health and the commissioner of children, families, and learning and be distributed to the local school districts by the commissioner of health and ~~shall~~. The school report must state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report shall must be filed with the commissioner of children, families, and learning within 60 days of the commencement of each new school term. Upon request, a district shall must be given a 60-day extension for filing the school report. The commissioner of children, families, and learning shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health and. The child care facility report must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report shall must be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to section 120.17, subdivision 2, nor for child care facilities in which at least 75 percent of children in the facility participate on a one-time only or occasional basis to a maximum of 45 hours per child, per month.

Sec. 57. Minnesota Statutes 1996, section 123.702, subdivision 1, is amended to read:

Subdivision 1. **EARLY CHILDHOOD DEVELOPMENTAL SCREENING.** Every school board ~~shall~~ must provide for a mandatory program of early childhood developmental screening for children once before school entrance, targeting children who

New language is indicated by underline, deletions by ~~strikeout~~.

(8) recruiting community and workplace mentors including peers, parents, employers and employed individuals from the community, and employers of high school students;

(9) identifying current and emerging educational, training, and employment needs of the area or region, especially within industries with potential for job growth;

(10) improving the coordination and effectiveness of local vocational and job training programs, including vocational education, adult basic education, tech prep, apprenticeship, service-learning, youth entrepreneur, youth training and employment programs administered by the commissioner of economic security, and local job training programs under the Job Training Partnership Act, United States Code, title 29, section 1501, et seq.;

(11) identifying and applying for federal, state, local, and private sources of funding for vocational or applied learning programs;

(12) providing students with current information and counseling about career opportunities, potential employment, educational opportunities in post-secondary institutions, workplaces, and the community, and the skills and knowledge necessary to succeed;

(13) providing educational technology, including interactive television networks and other distance learning methods, to ensure access to a broad variety of work-based learning opportunities;

(14) including students with disabilities in a district's vocational or applied learning program and ways to serve at-risk learners through collaboration with area learning centers under sections 124C.45 to 124C.49, or other alternative programs; and

(15) providing a warranty to employers, post-secondary education programs, and other post-secondary training programs, that learners successfully completing a high school work-based or applied learning program will be able to apply the knowledge and work skills included in the program outcomes or graduation requirements. The warranty shall require education and training programs to continue to work with those learners that need additional skill development until they can demonstrate achievement of the program outcomes or graduation requirements.

**Subd. 4. ANNUAL REPORTS.** A local education and employment transitions partnership shall must annually publish a report and submit information to the council as required. The report shall must include information required by the council for the state-wide system performance assessment. The report shall must be available to the public in the communities served by the local education and employment transitions partnership. The report shall must be published no later than September 1 of the year following the year in which the data was collected.

#### **Sec. 102. REPEALER.**

Minnesota Statutes 1996, section 126.84, subdivision 6, is repealed.

#### **Sec. 103. INSTRUCTION TO REVISOR.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

New language is indicated by underline, deletions by ~~strikeout~~.



Column A		Column B	
<u>126A.01</u>		<u>115A.073</u>	
<u>126A.06</u>		<u>115A.074</u>	
<u>123.70</u>		<u>120C.05</u>	
<u>123.701</u>		<u>120C.06</u>	
<u>123.702,</u>	subd. 1	<u>120C.07,</u>	subd. 1
	subd. 1a		subd. 2
	subd. 1h		subd. 3
	subd. 2		subd. 4
	subd. 3		subd. 5
	subd. 4		subd. 6
	subd. 4a		subd. 7
	subd. 5		subd. 8
	subd. 6		subd. 9
	subd. 7		subd. 10
<u>123.704</u>		<u>120C.08</u>	
<u>123.7045</u>		<u>120C.09</u>	
<u>123.35,</u>	subd. 17	<u>120C.11</u>	
<u>126.202</u>		<u>120C.12</u>	
<u>121.203</u>		<u>120C.13</u>	
<u>121.831</u>		<u>120C.20</u>	
<u>124.2615</u>		<u>120C.21</u>	
<u>121.835</u>		<u>120C.22</u>	
<u>121.882,</u>	subd. 1	<u>120C.25,</u>	subd. 1
	subd. 2		subd. 2
	subd. 2a		subd. 3
	subd. 2b		subd. 4
	subd. 3		subd. 5
	subd. 4		subd. 6
	subd. 5		subd. 7
	subd. 6		subd. 8
	subd. 7		subd. 9
	subd. 7a		subd. 10
	subd. 8		subd. 11
	subd. 9		subd. 12
<u>124.2711,</u>	subd. 1	<u>120C.26,</u>	subd. 1
	subd. 2		subd. 2
	subd. 2a		subd. 3
	subd. 3		subd. 4
	subd. 4		subd. 5
	subd. 5		subd. 6
	subd. 6		subd. 7
<u>121.85</u>		<u>120C.30</u>	
<u>121.88,</u>	subd. 1	<u>120C.31,</u>	subd. 1
	subd. 2		subd. 2
	subd. 2a		subd. 3

New language is indicated by underline, deletions by ~~strikeout~~.

	subd. 3		subd. 4
	subd. 4		subd. 5
	subd. 5		subd. 6
	subd. 6		subd. 7
	subd. 7		subd. 8
	subd. 8		subd. 9
	subd. 9		subd. 10
	subd. 10		subd. 11
<u>124.2713,</u>	subd. 1	<u>120C.32,</u>	subd. 1
	subd. 2		subd. 2
	subd. 3		subd. 3
	subd. 5		subd. 4
	subd. 6		subd. 5
	subd. 6a		subd. 6
	subd. 6b		subd. 7
	subd. 7		subd. 8
	subd. 8		subd. 9
	subd. 9		subd. 10
	subd. 10		subd. 11
<u>124.2714</u>		<u>120C.33</u>	
<u>124.2716</u>		<u>120C.34</u>	
<u>121.8355,</u>	subd. 1	<u>120C.35,</u>	subd. 1
	subd. 2		subd. 2
	subd. 2a		subd. 3
	subd. 3		subd. 4
	subd. 3a		subd. 5
	subd. 4		subd. 6
	subd. 5		subd. 7
	subd. 6		subd. 8
	subd. 7		subd. 9
<u>125.70</u>		<u>120C.37</u>	
<u>125.701</u>		<u>120C.38</u>	
<u>125.702</u>		<u>120C.39</u>	
<u>125.703</u>		<u>120C.40</u>	
<u>125.704</u>		<u>120C.41</u>	
<u>125.705</u>		<u>120C.42</u>	
<u>125.276,</u>	subd. 1	<u>120C.43,</u>	subd. 1
	subd. 2a		subd. 2
	subd. 3		subd. 3
	subd. 4		subd. 4
<u>124A.291</u>		<u>120C.44</u>	
<u>126.77</u>		<u>120C.45</u>	
<u>126.78</u>		<u>120C.46</u>	
<u>126.79</u>		<u>120C.47</u>	
<u>126.84</u>		<u>120C.48</u>	
<u>121.615</u>		<u>120C.50</u>	

New language is indicated by underline, deletions by ~~strikeout~~.

<u>121.70</u>		<u>120C.51</u>	
<u>121.701</u>		<u>120C.52</u>	
<u>121.702</u>		<u>120C.53</u>	
<u>121.704</u>		<u>120C.54</u>	
<u>121.705</u>		<u>120C.55</u>	
<u>121.706</u>		<u>120C.56</u>	
<u>121.707</u>		<u>120C.57</u>	
<u>121.708</u>		<u>120C.58</u>	
<u>121.709</u>		<u>120C.59</u>	
<u>121.710</u>		<u>120C.60</u>	
<u>126B.01</u>		<u>120C.62</u>	
<u>126B.03,</u>	<u>subd. 2</u>	<u>120C.63,</u>	<u>subd. 1</u>
	<u>subd. 3</u>		<u>subd. 2</u>
	<u>—</u>		<u>—</u>
<u>126B.06</u>		<u>120C.64</u>	
<u>126B.10</u>		<u>120C.65</u>	
<u>121.885</u>		<u>120C.67</u>	
<u>123.35,</u>	<u>subd. 8</u>	<u>120C.70</u>	
<u>124.26,</u>	<u>subd. 1b</u>	<u>120C.71,</u>	<u>subd. 1</u>
	<u>subd. 1c</u>		<u>subd. 2</u>
	<u>subd. 2</u>		<u>subd. 3</u>
	<u>—</u>		<u>—</u>
<u>124.2601</u>		<u>120C.72</u>	
<u>124.261</u>		<u>120C.73</u>	
<u>124.2605</u>		<u>120C.74</u>	
<u>124.2715</u>		<u>120C.76</u>	
<u>121.201</u>		<u>120C.77</u>	
<u>121.612</u>		<u>120C.82</u>	
<u>124.255</u>		<u>120C.84</u>	
<u>124C.10</u>		<u>120C.86</u>	
<u>124C.11</u>		<u>120C.87</u>	
<u>124C.12</u>		<u>120C.88</u>	

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## ARTICLE 4

### CHAPTER 121A

#### STATE ADMINISTRATION

Section 1. Minnesota Statutes 1996, section 121.11, subdivision 7, is amended to read:

**Subd. 7. GENERAL SUPERVISION OVER EDUCATIONAL AGENCIES.**

The state board of education shall adopt goals for and exercise general supervision over public schools and public educational agencies in the state, classify and standardize public elementary and secondary schools, and prepare for them outlines and suggested courses of study. The state board shall develop a plan to attain the adopted goals. At the state board's request, the commissioner may assign department of children, families, and

New language is indicated by underline, deletions by ~~strikeout~~.

year 2000, and \$1,387,100,000 for fiscal year 2001, and later fiscal years. The general education tax rate may not be changed due to changes or corrections made to a district's adjusted net tax capacity after the tax rate has been established. If the levy target for fiscal year 1999 or fiscal year 2000 is changed by another law enacted during the 1997 or 1998 session, the commissioner shall reduce the general education levy target in this section by the amount of the reduction in the enacted law.

Sec. 7. 1998 H. F. No. 2874, article 1, section 51, if enacted, is amended to read:

**Sec. 51. REPEALER.**

(a) Minnesota Statutes 1997 Supplement, section 124.912, subdivisions 2 and 3, are repealed effective for taxes payable in 1998.

(b) Minnesota Statutes 1996, sections 121.904, subdivision 4c; and 124.2601, subdivision 4, are repealed.

(c) Minnesota Statutes 1997 Supplement, section 124.2601, subdivision 5, is repealed effective July 1, 1999.

(d) Minnesota Statutes 1996, section 124.2713, subdivision 6b, is repealed effective for taxes payable in 1999 and revenue for fiscal year 2000.

(e) Minnesota Statutes 1996, section 124.2727, subdivision 6b, is repealed effective for taxes payable in 1999.

(f) Minnesota Statutes 1996, section 124A.292, subdivisions 2 and 4, are repealed effective for revenue for fiscal year 2000.

(g) (f) Laws 1997, chapter 231, article 1, section 17, is repealed effective the day following final enactment.

**Sec. 8. FORMULA ALLOWANCE.**

For fiscal year 2000 the basic formula allowance under Minnesota Statutes, section 124A.22, subdivision 2, is increased by \$67 per actual pupil unit for purposes of calculating compensatory revenue and sparsity revenue under Minnesota Statutes, section 124A.22.

Presented to the governor April 10, 1998

Signed by the governor April 21, 1998, 10:10 a.m.

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**CHAPTER 398—H.F.No. 2874**

*An act relating to state government; education and educational programs; kindergarten through grade 12; providing for general education; special education; interagency service, lifelong learning, and technology; facilities and organization; policies promoting academic excellence; education policy issues; libraries; state agencies; miscellaneous provisions; appropriating money; amending Minnesota Statutes 1996, sections 43A.17, subdivisions 9 and 10; 120.03, subdivision 1; 120.06, subdivision 2a; 120.064, subdivision 5; 120.101, subdivision 3; 120.17, subdivisions 1, 2, 3, 3a, 3b, 6, 7, 7a, 9, and 15; 120.1701, subdivisions 2, 5, 11, and 17; 120.173, subdivisions 1 and 6;*

**New language is indicated by underline, deletions by ~~strikeout~~.**

1998 1998 c 397 art11 s3;

Ch. 397, Art. 11

LAWS of MINNESOTA for 1998

1614

## ARTICLE 11

## GENERAL PROVISIONS

Section 1. **BONDS AND CERTIFICATES.**

A debt obligation authorized and issued by a repealed section in this act must be paid for and retired according to the section authorizing the debt obligation and the terms of the obligation and bond indentures and trust agreements.

Sec. 2. **REPEALER.**

Minnesota Statutes 1996, section 127.01, is repealed.

Sec. 3. **REVISOR INSTRUCTION.**

(a) If a provision of a section of Minnesota Statutes amended by this act is amended by the 1998 regular session, the revisor shall codify the amendment consistent with the recodification of the affected section by this act, notwithstanding any law to the contrary.

(b) In the next and subsequent editions of Minnesota Statutes and Minnesota Rules, the revisor shall correct all cross-references to sections renumbered, recodified, or repealed by this act.

(c) In the next and subsequent editions of Minnesota Statutes and Minnesota Rules, the revisor shall replace "actual pupil units" with "resident pupil units" and "fund balance pupil units" with "adjusted pupil units."

Sec. 4. **EFFECTIVE DATE.**

This act is effective July 1, 1998.

## ARTICLE 12

Section 1. Minnesota Statutes 1996, section 124.2727, subdivision 6a, as added by 1998 H. F. No. 2874, article 1, section 19, if enacted, is amended to read:

**Subd. 6a. FISCAL YEAR 1999 AND FISCAL YEAR 2000 DISTRICT COOPERATION REVENUE.** A district's cooperation revenue for fiscal year 1999 and fiscal year 2000 is equal to the greater of \$67 times the actual pupil units or \$25,000.

Sec. 2. Minnesota Statutes 1996, section 124.2727, subdivision 6c, as added by 1998 H. F. No. 2874, article 1, section 20, if enacted, is amended to read:

**Subd. 6c. FISCAL YEAR 1999 AND FISCAL YEAR 2000 DISTRICT COOPERATION AID.** A district's cooperation aid for fiscal year 1999 and fiscal year 2000 is the difference between its district cooperation revenue and its district cooperation levy. If a district does not levy the entire amount permitted, aid must be reduced in proportion to the actual amount levied.

Sec. 3. Minnesota Statutes 1997 Supplement, section 124A.22, subdivision 2, as added by 1998 H. F. No. 2874, article 1, section 29, if enacted, is amended to read:

**Subd. 2. BASIC REVENUE.** The basic revenue for each district equals the formula allowance times the actual pupil units for the school year. The formula allowance for fis-

New language is indicated by underline, deletions by ~~strikeout~~.

1998 1998 c 407 art 2 s 24;

1989

LAWS of MINNESOTA for 1998

Ch. 407

## CHAPTER 407—S.F.No. 3346

An act relating to human services; appropriating money; changing provisions for long-term care, health care programs, and provisions including MA and GAMC, MinnesotaCare, welfare reform, work first, compulsive gambling, child welfare modifications and child support, and regional treatment centers; providing administrative penalties; providing for the recording and reporting of abortion data; amending Minnesota Statutes 1996, sections 62A.65, subdivision 5; 62D.042, subdivision 2; 62E.16; 62J.321, by adding a subdivision; 62Q.095, subdivision 3; 144.226, subdivision 3; 144.701, subdivisions 1, 2, and 4; 144.702, subdivisions 1, 2, and 8; 144.9501, subdivisions 1, 17, 18, 20, 23, 30, 32, and by adding subdivisions; 144.9502, subdivisions 3, 4, and 9; 144.9503, subdivisions 4, 6, and 7; 144.9504, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, and 10; 144.9505, subdivisions 1, 4, and 5; 144.9506, subdivision 2; 144.9507, subdivisions 2, 3, and 4; 144.9508, subdivisions 1, 3, 4, and by adding a subdivision; 144.9509, subdivision 2; 144.99, subdivision 1; 144A.04, subdivision 5; 144A.09, subdivision 1; 144A.44, subdivision 2; 145.11, by adding a subdivision; 145A.15, subdivision 2; 157.15, subdivisions 9, 12, 12a, 13, and 14; 214.03; 245.462, subdivisions 4 and 8; 245.4871, subdivision 4; 245A.03, by adding subdivisions; 245A.035, subdivision 4; 245A.14, subdivision 4; 254A.17, subdivision 1, and by adding a subdivision; 256.01, subdivision 12, and by adding subdivisions; 256.014, subdivision 1; 256.969, subdivisions 16 and 17; 256B.03, subdivision 3; 256B.055, subdivision 7, and by adding a subdivision; 256B.057, subdivision 3a, and by adding subdivisions; 256B.0625, subdivisions 7, 17, 19a, 20, 34, 38, and by adding subdivisions; 256B.0627, subdivision 4; 256B.0911, subdivision 4; 256B.0916; 256B.41, subdivision 1; 256B.431, subdivisions 2b, 2i, 4, 11, 22, and by adding subdivisions; 256B.501, subdivisions 2 and 12; 256B.69, subdivision 22, and by adding subdivisions; 256D.03, subdivision 4, and by adding a subdivision; 256D.051, by adding a subdivision; 256D.46, subdivision 2; 256I.04, subdivisions 1, 3, and by adding a subdivision; 256I.05, subdivision 2; 257.42; 257.43; 259.24, subdivision 1; 259.37, subdivision 2; 259.67, subdivision 1; 260.011, subdivision 2; 260.141, by adding a subdivision; 260.172, subdivision 1; 260.221, as amended; 268.88; 268.92, subdivision 4; 609.115, subdivision 9; and 626.556, by adding a subdivision; Minnesota Statutes 1997 Supplement, sections 13.99, by adding a subdivision; 60A.15, subdivision 1; 62D.11, subdivision 1; 62J.69, subdivisions 1, 2, and by adding subdivisions; 62J.71, subdivisions 1, 3, and 4; 62J.72, subdivision 1; 62J.75; 62Q.105, subdivision 1; 62Q.30; 103J.208, subdivision 2; 119B.01, subdivision 16; 119B.02; 123.70, subdivision 10, as amended; 144.1494, subdivision 1; 144.218, subdivision 2; 144.226, subdivision 4; 144.9504, subdivision 2; 144.9506, subdivision 1; 144A.071, subdivision 4a; 144A.4605, subdivision 4; 157.16, subdivision 3; 171.29, subdivision 2; 214.32, subdivision 1; 245A.03, subdivision 2; 245A.04, subdivisions 3b and 3d; 245B.06, subdivision 2; 256.01, subdivision 2; 256.031, subdivision 6; 256.741, by adding a subdivision; 256.82, subdivision 2; 256.9657, subdivision 3; 256.9685, subdivision 1; 256.9864; 256B.04, subdivision 18; 256B.056, subdivisions 1a and 4; 256B.06, subdivision 4; 256B.062; 256B.0625, subdivision 31a; 256B.0627, subdivisions 5 and 8; 256B.0635, by adding a subdivision; 256B.0645; 256B.0911, subdivisions 2 and 7; 256B.0913, subdivision 14; 256B.0915, subdivisions 1d and 3; 256B.0951, by adding a subdivision; 256B.431, subdivisions 3f and 26; 256B.433, subdivision 3a; 256B.434, subdivision 10; 256B.61, subdivisions 2 and 3a; 256B.692, subdivisions 2 and 5; 256B.77, subdivisions 3, 7a, 10, and 12; 256D.03, subdivision 3; 256D.05, subdivision 8; 256F.05, subdivision 8; 256J.02, subdivision 4; 256J.03; 256J.08, subdivisions 11, 26, 28, 40, 60, 68, 73, 83, and by adding subdivisions; 256J.09, subdivisions 6 and 9; 256J.11, subdivision 2, as amended; 256J.12; 256J.14; 256J.15, subdivision 2; 256J.20, subdivisions 2 and 3; 256J.21; 256J.24, subdivisions 1, 2, 3, 4, 7, and by adding subdivisions; 256J.26, subdivisions 1, 2, 3, and 4; 256J.28, subdivisions 1, 2, and by adding a subdivision; 256J.30, subdivisions 10 and 11; 256J.31, subdivisions 5, 10, and by adding a subdivision; 256J.32, subdivisions 4, 6, and by adding a subdivision; 256J.33, subdivisions 1 and 4; 256J.35; 256J.36; 256J.37, subdivisions 1, 2, 9, and by adding subdivisions; 256J.38, subdivision 1; 256J.39, subdivision 2; 256J.395;

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a regional EMS program that receives at least 20 percent of its funding from nonstate sources to conduct the assessment. The request for proposals must be issued by August 1, 1998.

(c) A final report with recommendations shall be presented to the board and the legislature by July 1, 1999.

(d) This appropriation shall not become part of base level funding for the 2000-2001 biennium.

**Sec. 6. CARRYOVER LIMITATION.** None of the appropriations in this act which are allowed to be carried forward from fiscal year 1998 to fiscal year 1999 shall become part of the base level funding for the 2000-2001 biennial budget, unless specifically directed by the legislature.

**Sec. 7. SUNSET OF UNCODIFIED LANGUAGE.** All uncodified language contained in this article expires on June 30, 1999, unless a different expiration date is explicit.

**Sec. 8. EFFECTIVE DATE.**

The appropriations and reductions for fiscal year 1998 in this article are effective the day following final enactment.

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## ARTICLE 2

### HEALTH DEPARTMENT AND HEALTH PROFESSIONALS

Section 1. Minnesota Statutes 1997 Supplement, section 13.99, is amended by adding a subdivision to read:

**Subd. 19m. DATA HELD BY OFFICE OF HEALTH CARE CONSUMER ASSISTANCE, ADVOCACY, AND INFORMATION.** Consumer complaint data collected or maintained by the office of health care consumer assistance, advocacy, and information under sections 62J.77 and 62J.80 are classified under section 62J.79, subdivision 4.

Sec. 2. Minnesota Statutes 1997 Supplement, section 62D.11, subdivision 1, is amended to read:

**Subdivision 1. ENROLLEE COMPLAINT SYSTEM.** Every health maintenance organization shall establish and maintain a complaint system, as required under section

New language is indicated by underline, deletions by ~~strikeout~~.

(7) for a dewatering well that is unsealed under a maintenance permit, \$100 annually for each well, except a dewatering project comprising more than five wells shall be issued a single permit for \$500 annually for wells recorded on the permit; and

(8) for excavating holes for the purpose of installing elevator shafts, \$120 for each hole.

Sec. 24. Minnesota Statutes 1997 Supplement, section 123.70, subdivision 10, as amended by Laws 1998, chapter 305, section 4, is amended to read:

Subd. 10. A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(a) For persons enrolled in grades 7 and 12 during the 1996–1997 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(b) Except as specified in paragraph (c), for persons enrolled in grades 7, 8, and 12 during the 1997–1998 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(c) Except as specified in paragraph (e), for persons enrolled in grades 7 through 12 during the 1998–1999 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(d) For persons enrolled in grades 7 through 12 during the 1996–1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(e) A person who has received at least three doses of tetanus and diphtheria toxoids, with the most recent dose given after age six and before age 11, is not required to have additional immunization against diphtheria and tetanus until ten years have elapsed from the person's most recent dose of tetanus and diphtheria toxoid.

(f) The requirement for hepatitis B vaccination shall apply to persons enrolling in kindergarten beginning with the 2000–2001 school term.

(g) The requirement for hepatitis B vaccination shall apply to persons enrolling in kindergarten through grade 7 beginning with the 2007–2008 2001–2002 school term.

Sec. 25. Minnesota Statutes 1997 Supplement, section 144.1494, subdivision 1, is amended to read:

Subdivision 1. **CREATION OF ACCOUNT.** A rural physician education account is established in the health care access fund. The commissioner shall use money from the account to establish a loan forgiveness program for medical residents agreeing to practice in designated rural areas, as defined by the commissioner. Appropriations made to this account do not cancel and are available until expended, except that at the end of each biennium the commissioner shall cancel to the health care access fund any remaining unobligated balance in this account.

New language is indicated by underline, deletions by ~~strikeout~~.



mitted to the chairs of the senate health and family security budget division, the house health and human services finance division, the senate K-12 education budget division, and the house K-12 education finance division by December 15, 1998.

#### **Sec. 108. BOARD OF REHABILITATION THERAPY.**

The commissioner of health shall convene a work group to study the feasibility and need of creating a separate board of rehabilitation therapy to regulate rehabilitation therapy occupations, including physical therapists, occupational therapists, speech-language pathologists, audiologists, and hearing instrument dispensers. The work group shall consist of members representing physical therapists, occupational therapists, speech-language pathologists, audiologists, hearing instrument dispensers, and any other related occupation group that the commissioner determines should be included. The commissioner, in consultation with the work group, shall submit to the legislature by January 15, 1999, recommendations on establishing a board of rehabilitation therapy and on the appropriate occupational groups to be regulated by this board.

#### **Sec. 109. REPEALER.**

Minnesota Statutes 1996, sections 62J.685; 144.491; 144.9501, subdivisions 12, 14, and 16; and 144.9503, subdivisions 5, 8, and 9; and 157.15, subdivision 15, are repealed.

#### **Sec. 110. EFFECTIVE DATES.**

(a) Sections 2, 8, 20, 22, 34 to 80, 93, 94, and 97 to 108 are effective the day following final enactment.

(b) Sections 9 to 13, 21, and 81 are effective January 1, 1999.

### **ARTICLE 3**

#### **LONG-TERM CARE**

Section 1. Minnesota Statutes 1996, section 144A.04, subdivision 5, is amended to read:

**Subd. 5. ADMINISTRATORS.** Except as otherwise provided by this subdivision, a nursing home must have a full time licensed nursing home administrator serving the facility. In any nursing home of less than ~~25~~ 31 beds, the director of nursing services may also serve as the licensed nursing home administrator. Two nursing homes under common ownership having a total of 150 beds or less and located within 75 miles of each other may share the services of a licensed administrator if the administrator divides full-time work week between the two facilities in proportion to the number of beds in each facility. Every nursing home shall have a person-in-charge on the premises at all times in the absence of the licensed administrator. The name of the person in charge must be posted in a conspicuous place in the facility. The commissioner of health shall by rule promulgate minimum education and experience requirements for persons-in-charge, and may promulgate rules specifying the times of day during which a licensed administrator must be on the nursing home's premises. In the absence of rules adopted by the commissioner

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2001 1Sp2001 c 9 art 1 s 24,25;

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LAWS of MINNESOTA  
2001 FIRST SPECIAL SESSION

Ch. 9

## CHAPTER 9—S.F.No. 4

*An act relating to the operation of state government; modifying provisions relating to health; health department; health care; human services; human services department; continuing care; consumer information; long-term care; mental health and civil commitment; assistance programs; nursing services agencies; workforce and recruitment; child welfare and foster care; child support licensing and licensing background studies; vital statistics; patient protection; criminal justice; driving while impaired; appropriating money for health and human services and criminal justice; amending Minnesota Statutes 2000, sections 13.46, subdivision 4; 13.461, subdivision 17; 13B.06, subdivision 7; 15A.083, subdivision 4; 45.027, subdivision 6; 62A.095, subdivision 1; 62A.48, subdivision 4, by adding subdivisions; 62D.17, subdivision 1; 62J.152, subdivision 8; 62J.38; 62J.451, subdivision 5; 62J.692, subdivision 7, by adding a subdivision; 62M.02, subdivision 21; 62Q.56; 62Q.58; 62S.01, by adding subdivisions; 62S.26; 103I.101, subdivision 6; 103I.112; 103I.208, subdivisions 1, 2; 103I.235, subdivision 1; 103I.525, subdivisions 2, 6, 8, 9; 103I.531, subdivisions 2, 6, 8, 9; 103I.535, subdivisions 2, 6, 8, 9; 103I.541, subdivisions 2b, 4, 5; 103I.545; 116L.11, subdivision 4; 116L.12, subdivisions 4, 5; 116L.13, subdivision 1; 121A.15, by adding subdivisions; 135A.14, by adding a subdivision; 137.38, subdivision 1; 144.057; 144.0721, subdivision 1; 144.1202, subdivision 4; 144.122; 144.1464; 144.148, subdivision 2; 144.1491, subdivision 1; 144.212, subdivisions 2a, 3, 5, 7, 8, 9, 11; 144.214, subdivisions 1, 3, 4; 144.215, subdivisions 1, 3, 4, 6, 7; 144.217; 144.218; 144.221, subdivisions 1, 3; 144.222, subdivision 2; 144.223; 144.225, subdivisions 1, 2, 2a, 3, 7, as amended; 144.226, subdivisions 1, 3, 4; 144.227; 144.395, subdivision 2; 144.551, subdivision 1; 144.98, subdivision 3; 144A.071, subdivisions 1, 1a, 2, 4a; 144A.073, subdivisions 2, as amended, 4; 144A.44, subdivision 1; 144A.4605, subdivision 4; 144D.03, subdivision 2; 144D.04, subdivisions 2, 3; 144D.06; 145.881, subdivision 2; 145A.15, subdivision 1, by adding a subdivision; 145A.16, subdivision 1, by adding a subdivision; 148.212; 148.284; 148B.21, subdivision 6a; 148B.22, subdivision 3; 150A.10, by adding a subdivision; 157.16, subdivision 3; 157.22, as amended; 169A.07; 169A.20, subdivision 3; 169A.25; 169A.26; 169A.27; 169A.275; 169A.283, subdivision 1; 169A.40, subdivision 3; 169A.63, subdivision 1; 171.29, subdivision 2; 214.104; 241.272, subdivision 6; 241.32, by adding a subdivision; 241.45; 242.192; 243.51, subdivisions 1, 3; 243.462, subdivisions 8, 18, by adding subdivisions; 243.474, by adding a subdivision; 243.4871, subdivisions 10, 27, by adding a subdivision; 243.4875, subdivision 2; 243.4876, subdivision 1, by adding a subdivision; 243.488, by adding a subdivision; 243.4885, subdivision 1; 243.4886, subdivision 1; 243.814, subdivision 1; 243.99, subdivision 4; 245A.02, subdivisions 3, 9, by adding a subdivision; 245A.03, subdivisions 2, 2b, by adding a subdivision; 245A.035, subdivision 1; 245A.04, subdivisions 3, 3a, 3b, 3c, 3d, 6, 11, by adding a subdivision; 245A.05; 245A.06; 245A.07; 245A.08; 245A.13, subdivisions 7, 8; 245A.16, subdivision 1; 245B.08, subdivision 3; 252.275, subdivision 4b; 252A.02, subdivisions 12, 13, by adding a subdivision; 252A.111, subdivision 6; 252A.16, subdivision 1; 252A.19, subdivision 2; 252A.20, subdivision 1; 253B.02, subdivisions 10, 13; 253B.03, subdivisions 5, 10, by adding a subdivision; 253B.04, subdivisions 1, 1a, by adding a subdivision; 253B.045, subdivision 6; 253B.05, subdivision 1; 253B.065, subdivision 5; 253B.066, subdivision 1; 253B.07, subdivisions 1, 2, 7; 253B.09, subdivision 1; 253B.10, subdivision 4; 254B.02, subdivision 3; 254B.03, subdivision 1; 254B.04, subdivision 1; 254B.09, by adding a subdivision; 256.01, subdivisions 2, as amended, 18, by adding a subdivision; 256.045, subdivisions 3, 3b, 4; 256.476, subdivisions 1, 2, 3, 4, 5, 8, by adding a subdivision; 256.741, subdivisions 1, 5, 8; 256.955, subdivisions 2a, 2b; 256.9657, subdivision 2; 256.969, subdivision 3a, by adding a subdivision; 256.975, by adding subdivisions; 256.979, subdivisions 3, 6; 256.98, subdivision 8; 256B.04, by adding a subdivision; 256B.055, subdivision 3a; 256B.056, subdivisions 1a, 3, 4, 4b, 5, by adding subdivisions; 256B.057, subdivisions 2, 3, 7, 9, by adding a subdivision; 256B.0625, subdivisions 3b, 7, 13, 13a, 17, 17a,*

New language is indicated by underline, deletions by strikethrough.

9505.2458; 9505.2460; 9505.2465; 9505.2470; 9505.2473; 9505.2475; 9505.2480;  
 9505.2483; 9505.2486; 9505.2490; 9505.2495; 9505.2498; 9505.2500; 9505.3010;  
 9505.3013; 9505.3020; 9505.3025; 9505.3030; 9505.3035; 9505.3040; 9505.3065;  
 9505.3085; 9505.3135; 9505.3500; 9505.3510; 9505.3520; 9505.3530; 9505.3535;  
 9505.3540; 9505.3545; 9505.3550; 9505.3560; 9505.3570; 9505.3575; 9505.3580;  
 9505.3585; 9505.3600; 9505.3610; 9505.3620; 9505.3622; 9505.3624; 9505.3626;  
 9505.3630; 9505.3635; 9505.3640; 9505.3645; 9505.3650; 9505.3660; 9505.3670;  
 9543.3000; 9543.3010; 9543.3020; 9543.3030; 9543.3040; 9543.3050; 9543.3060;  
 9543.3080; 9543.3090; 9546.0010; 9546.0020; 9546.0030; 9546.0040; 9546.0050; 9546.0060.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

## ARTICLE 1

### DEPARTMENT OF HEALTH

Section 1. Minnesota Statutes 2000, section 62J.152, subdivision 8, is amended to read:

Subd. 8. **REPEALER.** This section and sections 62J.15 and 62J.156 are repealed effective July 1, 2004 2005.

Sec. 2. Minnesota Statutes 2000, section 62J.451, subdivision 5, is amended to read:

Subd. 5. **HEALTH CARE ELECTRONIC DATA INTERCHANGE SYSTEM.** (a) The health data institute shall establish an electronic data interchange system that electronically transmits, collects, archives, and provides users of data with the data necessary for their specific interests, in order to promote a high quality, cost-effective, consumer-responsive health care system. This public-private information system shall be developed to make health care claims processing and financial settlement transactions more efficient and to provide an efficient, unobtrusive method for meeting the shared electronic data interchange needs of consumers, group purchasers, providers, and the state.

(b) The health data institute shall operate the Minnesota center for health care electronic data interchange established in section 62J.57, and shall integrate the goals, objectives, and activities of the center with those of the health data institute's electronic data interchange system.

Sec. 3. Minnesota Statutes 2000, section 103I.101, subdivision 6, is amended to read:

Subd. 6. **FEEES FOR VARIANCES.** The commissioner shall charge a nonrefundable application fee of \$120 \$150 to cover the administrative cost of processing a request for a variance or modification of rules adopted by the commissioner under this chapter.

**EFFECTIVE DATE.** This section is effective July 1, 2002.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 23. Minnesota Statutes 2000, section 103L545, is amended to read:

**103L545 REGISTRATION OF DRILLING MACHINES REQUIRED.**

**Subdivision 1. DRILLING MACHINE.** (a) A person may not use a drilling machine such as a cable tool, rotary tool, hollow rod tool, or auger for a drilling activity requiring a license or registration under this chapter unless the drilling machine is registered with the commissioner.

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a ~~\$50~~ \$75 registration fee.

(c) A registration is valid for one year.

**Subd. 2. PUMP HOIST.** (a) A person may not use a machine such as a pump hoist for an activity requiring a license or registration under this chapter to repair wells or borings, seal wells or borings, or install pumps unless the machine is registered with the commissioner.

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a ~~\$50~~ \$75 registration fee.

(c) A registration is valid for one year.

**EFFECTIVE DATE.** This section is effective July 1, 2002.

Sec. 24. Minnesota Statutes 2000, section 121A.15, is amended by adding a subdivision to read:

**Subd. 3a. DISCLOSURES REQUIRED.** (a) This paragraph applies to any written information about immunization requirements for enrollment in a school or child care facility that:

(1) is provided to a person to be immunized or enrolling or enrolled in a school or child care facility, or to the person's parent or guardian if the person is under 18 years of age and not emancipated; and

(2) is provided by the department of health; the department of children, families, and learning; the department of human services; an immunization provider; or a school or child care facility.

Such written information must describe the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d). The information on exemptions from immunizations provided according to this paragraph must be in a font size at least equal to the font size of the immunization requirements, in the same font style as the immunization requirements, and on the same page of the written document as the immunization requirements.

(b) Before immunizing a person, an immunization provider must provide the person, or the person's parent or guardian if the person is under 18 years of age and

New language is indicated by underline, deletions by ~~strikeout~~.

not emancipated, with the following information in writing:

(1) a list of the immunizations required for enrollment in a school or child care facility;

(2) a description of the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d);

(3) a list of additional immunizations currently recommended by the commissioner; and

(4) in accordance with federal law, a copy of the vaccine information sheet from the federal Department of Health and Human Services that lists possible adverse reactions to the immunization to be provided.

Sec. 25. Minnesota Statutes 2000, section 121A.15, is amended by adding a subdivision to read:

Subd. 12. MODIFICATIONS TO SCHEDULE. (a) The commissioner of health may adopt modifications to the immunization requirements of this section. A proposed modification made under this subdivision must be part of the current immunization recommendations of each of the following organizations: the United States Public Health Service's Advisory Committee on Immunization Practices, the American Academy of Family Physicians, and the American Academy of Pediatrics. In proposing a modification to the immunization schedule, the commissioner must

(1) consult with the commissioner of children, families, and learning; the commissioner of human services; the chancellor of the Minnesota state colleges and universities; and the president of the University of Minnesota; and

(2) consider the following criteria: the epidemiology of the disease, the morbidity and mortality rates for the disease, the safety and efficacy of the vaccine, the cost of a vaccination program, the cost of enforcing vaccination requirements, and a cost-benefit analysis of the vaccination.

(b) Before a proposed modification may be adopted, the commissioner must notify the chairs of the house and senate committees with jurisdiction over health policy issues. If the chairs of the relevant standing committees determine a public hearing regarding the proposed modifications is in order, the hearing must be scheduled within 60 days of receiving notice from the commissioner. If a hearing is scheduled, the commissioner may not adopt any proposed modifications until after the hearing is held.

(c) The commissioner shall comply with the requirements of chapter 14 regarding the adoption of any proposed modifications to the immunization schedule.

(d) In addition to the publication requirements of chapter 14, the commissioner of health must inform all immunization providers of any adopted modifications to the immunization schedule in a timely manner.

human services issues by February 15, 2002.

**Sec. 61. MEDICATIONS DISPENSED IN SCHOOLS STUDY.**

(a) The commissioner of health, in consultation with the board of nursing, shall study the relationship between the Nurse Practice Act, Minnesota Statutes, sections 148.171 to 148.285; and 121A.22, which specifies the administration of medications in schools and the activities authorized under these sections, including the administration of prescription and nonprescription medications and medications needed by students to manage a chronic illness. The commissioner shall also make recommendations on necessary statutory changes needed to promote student health and safety in relation to administering medications in schools and addressing the changing health needs of students.

(b) The commissioner shall convene a work group to assist in the study and recommendations. The work group shall consist of representatives of the commissioner of human services; the commissioner of children, families, and learning; the board of nursing; the board of teaching; school nurses; parents; school administrators; school board associations; the American Academy of Pediatrics; and the Minnesota Nurse's Association.

(c) The commissioner shall submit these recommendations and any recommended statutory changes to the legislature by January 15, 2002.

**Sec. 62. REPEALER.**

(a) Minnesota Statutes 2000, section 144.148, subdivision 8, is repealed.

(b) Minnesota Statutes 2000, sections 121A.15, subdivision 6; and 145.927, are repealed.

**EFFECTIVE DATE.** Paragraph (a) of this section is effective the day following final enactment.

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**ARTICLE 2**

**HEALTH CARE**

Section 1. Minnesota Statutes 2000, section 62A.095, subdivision 1, is amended to read:

Subdivision 1. **APPLICABILITY.** (a) No health plan shall be offered, sold, or issued to a resident of this state, or to cover a resident of this state, unless the health plan complies with subdivision 2.

(b) Health plans providing benefits under health care programs administered by the commissioner of human services are not subject to the limits described in subdivision 2 but are subject to the right of subrogation provisions under section

New language is indicated by underline, deletions by ~~strikeout~~.

2002 2002 c 379 art 1 s 113;

2002 Volume 2 not found on HeinOnline

Content collected from Minnesota State Legislature website

## CONTENTS

### VOLUME 1

	<b>Page</b>
Revisor's Certificate .....	III
Legislative Officers and Members, 2002 .....	IX
Regular Session Laws 2002, Chapters 219 to 375 .....	3

### VOLUME 2

	<b>Page</b>
Revisor's Certificate .....	III
Regular Session Laws 2002, Chapters 376 to 403 .....	1065
Regular Session Resolutions 2002 .....	1713
Table 1, Session Laws Amended or Repealed .....	1717
Table 2, Minnesota Statutes New, Amended or Repealed .....	1735
Table 3, Senate and House Files Enacted or Vetoed ..	1785
Table 4, Special Laws of Local Government Units, 2001 .....	1789
Table 5, Special Laws of Local Government Units, 2002 .....	1792
Index .....	1797

### VII

Sec. 113. [REENACTMENT.]

2001 First Special Session Senate File No. 4, as passed by the senate and the house of representatives on Friday, June 29, 2001, and subsequently published as Laws 2001, First Special Session chapter 9, is reenacted. Its provisions are effective on the dates originally provided in the bill.

Obtained from

<https://www.revisor.mn.gov/laws/?doctype=Chapter&year=2002&type=0&id=379>



2003 2003 c 130 s 12;

Ch. 129, Art. 2

LAWS of MINNESOTA for 2003

1260

legislature having jurisdiction over kindergarten through grade 12 education policy and budget issues by February 1, 2004, that:

(1) identify the cut-scores on high school reading and mathematics assessments indicating that remedial instruction in the state's two-year higher education institutions is unnecessary;

(2) recommend alternative assessments, including student portfolios;

(3) recommend whether students must pass state end-of-course examinations as a requirement for high school graduation;

(4) evaluate the feasibility of including state percentile rankings and a national comparison; and

(5) establish a method for using the grade 8 language arts and math tests to satisfy basic skills requirements.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

### Sec. 3. RULES FOR SUPPLEMENTAL SERVICE PROVIDERS.

The commissioner of children, families, and learning may adopt rules under Minnesota Statutes, section 14.388, establishing criteria for identifying, annually reviewing, and formally listing eligible supplemental education service providers throughout Minnesota, consistent with applicable federal requirements and Minnesota's application for supplemental education service providers under Title I, Part A, of the No Child Left Behind Act.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to supplemental education service providers delivering supplemental English or math services to eligible students in the 2003-2004 school year and later.

Presented to the governor May 20, 2003

Signed by the governor May 21, 2003, 2:50 p.m.

## CHAPTER 130—S.F.No. 296

*An act relating to education; renaming the department of children, families, and learning to department of education; making conforming changes to reflect the department name change; amending Minnesota Statutes 2002, sections 15.01; 119A.01, subdivision 2; 119A.02, subdivisions 2, 3; 119B.011, subdivisions 8, 10; 120A.02; 120A.05, subdivisions 4, 7; 127A.05, subdivisions 1, 3; repealing Minnesota Statutes 2002, section 119A.01, subdivision 1.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2002, section 15.01, is amended to read:

### 15.01 DEPARTMENTS OF THE STATE.

New language is indicated by underline, deletions by ~~strikeout~~.



Subd. 4. **COMMISSIONER.** "Commissioner" means the commissioner of children, families, and learning education.

Sec. 9. Minnesota Statutes 2002, section 120A.05, subdivision 7, is amended to read:

Subd. 7. **DEPARTMENT.** "Department" means the department of children, families, and learning education.

Sec. 10. Minnesota Statutes 2002, section 127A.05, subdivision 1, is amended to read:

Subdivision 1. **APPOINTMENT AND DUTIES.** The department shall be under the administrative control of the commissioner of children, families, and learning education which office is established. The governor shall appoint the commissioner under the provisions of section 15.06.

The commissioner shall be a person who possesses educational attainment and breadth of experience in the administration of public education and of the finances pertaining thereto commensurate with the spirit and intent of this code. Notwithstanding any other law to the contrary, the commissioner may appoint two deputy commissioners who shall serve in the unclassified service. The commissioner shall also appoint other employees as may be necessary for the organization of the department. The commissioner shall perform such duties as the law and rules may provide and be held responsible for the efficient administration and discipline of the department. The commissioner is charged with the execution of powers and duties to promote public education in the state and to safeguard the finances pertaining thereto.

Sec. 11. Minnesota Statutes 2002, section 127A.05, subdivision 3, is amended to read:

Subd. 3. **GENERAL SUPERVISION OVER PUBLIC SCHOOLS AND EDUCATIONAL AGENCIES.** The commissioner of children, families, and learning education shall adopt goals for and exercise general supervision over public schools and public educational agencies in the state, classify and standardize public elementary and secondary schools, and prepare for them outlines and suggested courses of study. The commissioner shall develop a plan to attain the adopted goals. The commissioner may recognize educational accrediting agencies for the sole purposes of sections 120A.22, 120A.24, and 120A.26.

Sec. 12. **REVISOR INSTRUCTION.**

(a) In Minnesota Statutes, the revisor shall renumber section 119A.02, subdivision 2, as 120A.02, paragraph (a), and section 120A.02 as 120A.02, paragraph (b).

(b) In Minnesota Statutes and Minnesota Rules, the revisor shall change the term "children, families, and learning" to "education."

Sec. 13. **REPEALER.**

Minnesota Statutes 2002, section 119A.01, subdivision 1, is repealed.

New language is indicated by underline, deletions by ~~strikeout~~.

Presented to the governor May 24, 2003

Signed by the governor May 28, 2003, 12:55 p.m.

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### CHAPTER 131—S.F.No. 1099

*An act relating to employment; repealing laws governing entertainment agencies; repealing Minnesota Statutes 2002, sections 184A.01; 184A.02; 184A.03; 184A.04; 184A.05; 184A.06; 184A.07; 184A.08; 184A.09; 184A.10; 184A.11; 184A.12; 184A.13; 184A.14; 184A.15; 184A.16; 184A.17; 184A.18; 184A.19; 184A.20.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

#### Section 1. REPEALER.

Minnesota Statutes 2002, sections 184A.01; 184A.02; 184A.03; 184A.04; 184A.05; 184A.06; 184A.07; 184A.08; 184A.09; 184A.10; 184A.11; 184A.12; 184A.13; 184A.14; 184A.15; 184A.16; 184A.17; 184A.18; 184A.19; and 184A.20, are repealed.

Presented to the governor May 24, 2003

Signed by the governor May 28, 2003, 1:35 p.m.

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### CHAPTER 132—S.F.No. 1176

*An act relating to civil law; clarifying that civil actions against the state may be brought in federal court under certain federal statutes; amending Minnesota Statutes 2002, section 1.05.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2002, section 1.05, is amended to read:

#### 1.05 WAIVER OF IMMUNITY FOR VIOLATIONS OF CERTAIN FEDERAL STATUTES.

**Subdivision 1. AGE DISCRIMINATION IN EMPLOYMENT ACT.** An employee, former employee, or prospective employee of the state who is aggrieved by the state's violation of the Age Discrimination in Employment Act of 1967, United States Code, title 29, section 621, et seq., as amended, may bring a civil action against the state in federal court or in any other court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of the act.

**Subd. 2. FAIR LABOR STANDARDS ACT.** An employee of the state who is aggrieved by the state's violation of the Fair Labor Standards Act of 1938, United

New language is indicated by underline, deletions by ~~strikes~~.

2004 2004 c 279 art 10 s 1,2;

1179

LAWS of MINNESOTA for 2004

Ch. 279

section, a municipality may contract to sell supplies, materials, and equipment which is surplus, obsolete, or unused using an electronic selling process in which purchasers compete to purchase the surplus supplies, materials, or equipment at the highest purchase price in an open and interactive environment.

Sec. 14. Minnesota Statutes 2002, section 471.345, is amended by adding a subdivision to read:

Subd. 18. ELECTRONIC BIDDING. Notwithstanding any other procedural requirements of this section, vendors may submit bids, quotations, and proposals electronically in a form and manner required by the municipality. A municipality may allow bid, performance, or payment bonds, or other security, to be furnished electronically.

Sec. 15. EFFECTIVE DATE.

Sections 4 to 14 are effective the day following final enactment.

Presented to the governor May 18, 2004

Signed by the governor May 29, 2004, 8:25 a.m.

## CHAPTER 279—H.F.No. 2175

*An act relating to health; modifying requirements for various public health occupations; prescribing authority of speech-language pathology assistants; providing for renewal of certain licenses by members of the military; modifying requirements for physician assistants, acupuncture practitioners, nurses, licensed professional counselors, alcohol and drug counselors, dentists, dental hygienists, dental assistants, and podiatrists; modifying provisions for designating essential community providers; modifying certain immunization provisions; providing for performance reviews of certain executive directors; requiring a study; extending the Minnesota Emergency Health Powers Act; appropriating money; amending Minnesota Statutes 2002, sections 144E.01, subdivision 5; 147.01, subdivision 5; 147A.02; 147A.20; 147B.01, by adding a subdivision; 147B.06, subdivision 4; 148.191, subdivision 1; 148.211, subdivision 1; 148.284; 148.512, subdivisions 9, 19, by adding a subdivision; 148.6402, by adding a subdivision; 148.6403, subdivision 5; 148.6405; 148.6428; 148.6443, subdivisions 1, 5; 148B.19, subdivision 4; 150A.06, as amended; 150A.08, subdivision 1; 150A.09, subdivision 4; 153.01, subdivision 2; 153.16, subdivisions 1, 2; 153.19, subdivision 1; 153.24, subdivision 4; 153.25, subdivision 1; 192.502; 214.04, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 62Q.19, subdivision 2; 121A.15, subdivisions 3a, 12; 147A.09, subdivision 2; 148.212, subdivision 1; 148.511; 148.512, subdivisions 12, 13; 148.513, subdivisions 1, 2; 148.5161, subdivisions 1, 4, 6; 148.5173; 148.518; 148.5193, subdivisions 1, 6a; 148.5195, subdivision 3; 148.5196, subdivision 3; 148B.51; 148B.52; 148B.53, subdivisions 1, 3; 148B.54; 148B.55; 148B.59; 148C.04, subdivision 6; 148C.073, subdivision 2, by adding a subdivision; 148C.11, subdivisions 1, 6; 148C.12, subdivisions 2, 3; Laws 2002, chapter 402, section 21; Laws 2003, chapter 118, sections 28, 29; proposing coding for new law in Minnesota Statutes, chapters 148; 148B; 197; repealing Minnesota Statutes 2002, section 147B.02, subdivision 5; Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400.*

New language is indicated by underline, deletions by ~~strikeout~~.

(d) The commissioner shall accept an application for designation as an essential community provider until June 30, ~~2004~~ 2004, from:

(1) one applicant that is a nonprofit community health care facility, services agency certified as a medical assistance provider effective April 1, 1998, that provides culturally competent health care to an underserved Southeast Asian immigrant and refugee population residing in the immediate neighborhood of the facility;

(2) one applicant that is a nonprofit home health care provider, certified as a Medicare and a medical assistance provider that provides culturally competent home health care services to a low-income culturally diverse population;

(3) up to five applicants that are nonprofit community mental health centers certified as medical assistance providers that provide mental health services to children with serious emotional disturbance and their families or to adults with serious and persistent mental illness; and

(4) one applicant that is a nonprofit provider certified as a medical assistance provider that provides mental health, child development, and family services to children with physical and mental health disorders and their families.

(e) The commissioner shall accept an application for designation as an essential community provider until June 30, 2003, from one applicant that is a nonprofit community clinic located in Hennepin County that provides health care to an underserved American Indian population and that is collaborating with other neighboring organizations on a community diabetes project and an immunization project. mental health, behavioral health, chemical dependency, employment, and health wellness services to the underserved Spanish-speaking Latino families and individuals with locations in Minneapolis and St. Paul.

## Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

## ARTICLE 10

### EDUCATION AND PRECAUTIONS REGARDING VACCINES

Section 1. Minnesota Statutes 2003 Supplement, section 121A.15, subdivision 3a, is amended to read:

Subd. 3a. **DISCLOSURES REQUIRED.** (a) This paragraph applies to any written information about immunization requirements for enrollment in a school or child care facility that:

(1) is provided to a person to be immunized or enrolling or enrolled in a school or child care facility, or to the person's parent or guardian if the person is under 18 years of age and not emancipated; and

New language is indicated by underline, deletions by ~~strikeout~~.

(2) is provided by the Department of Health; the Department of Education; the Department of Human Services; an immunization provider; or a school or child care facility.

Such written information must describe the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d). The information on exemptions from immunizations provided according to this paragraph must be in a font size at least equal to the font size of the immunization requirements, in the same font style as the immunization requirements, and on the same page of the written document as the immunization requirements.

(b) Before immunizing a person, an immunization provider must provide the person, or the person's parent or guardian if the person is under 18 years of age and not emancipated, with the following information in writing:

(1) a list of the immunizations required for enrollment in a school or child care facility;

(2) a description of the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d);

(3) a list of additional immunizations currently recommended by the commissioner; and

(4) in accordance with federal law, a copy of the vaccine information sheet from the federal Department of Health and Human Services that lists possible adverse reactions to the immunization to be provided.

(c) The commissioner will continue the educational campaign to providers and hospitals on vaccine safety including, but not limited to, information on the vaccine adverse events reporting system (VAERS), the federal vaccine information statements (VIS), and medical precautions and contraindications to immunizations.

(d) The commissioner will encourage providers to provide the vaccine information statements at multiple visits and in anticipation of subsequent immunizations.

(e) The commissioner will encourage providers to use existing screening for immunization precautions and contraindication materials and make proper use of the vaccine adverse events reporting system (VAERS).

(f) In consultation with groups and people identified in subdivision 12, paragraph (a), clause (1), the commissioner will continue to develop and make available patient education materials on immunizations including, but not limited to, contraindications and precautions regarding vaccines.

(g) The commissioner will encourage health care providers to use thimerosal-free vaccines when available.

Sec. 2. Minnesota Statutes 2003 Supplement, section 121A.15, subdivision 12, is amended to read:

Subd. 12. **MODIFICATIONS TO SCHEDULE.** (a) The commissioner of health may adopt modifications to the immunization requirements of this section. A proposed

New language is indicated by underline, deletions by ~~strikeout~~.

modification made under this subdivision must be part of the current immunization recommendations of each of the following organizations: the United States Public Health Service's Advisory Committee on Immunization Practices, the American Academy of Family Physicians, and the American Academy of Pediatrics. In proposing a modification to the immunization schedule, the commissioner must:

(1) consult with (i) the commissioner of education; the commissioner of human services; the chancellor of the Minnesota State Colleges and Universities; and the president of the University of Minnesota; and (ii) the Minnesota Natural Health Coalition, Vaccine Awareness Minnesota, Biological Education for Autism Treatment (BEAT), the Minnesota Academy of Family Physicians, the American Academy of Pediatrics-Minnesota Chapter, and the Minnesota Nurses Association; and

(2) consider the following criteria: the epidemiology of the disease, the morbidity and mortality rates for the disease, the safety and efficacy of the vaccine, the cost of a vaccination program, the cost of enforcing vaccination requirements, and a cost-benefit analysis of the vaccination.

(b) Before a proposed modification may be adopted, the commissioner must notify the chairs of the house and senate committees with jurisdiction over health policy issues. If the chairs of the relevant standing committees determine a public hearing regarding the proposed modifications is in order, the hearing must be scheduled within 60 days of receiving notice from the commissioner. If a hearing is scheduled, the commissioner may not adopt any proposed modifications until after the hearing is held.

(c) The commissioner shall comply with the requirements of chapter 14 regarding the adoption of any proposed modifications to the immunization schedule.

(d) In addition to the publication requirements of chapter 14, the commissioner of health must inform all immunization providers of any adopted modifications to the immunization schedule in a timely manner.

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## ARTICLE 11

### MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 144E.01, subdivision 5, is amended to read:

Subd. 5. **STAFF.** The board shall appoint an executive director who shall serve in the unclassified service and may appoint other staff. The service of the executive director shall be subject to the terms described in section 214.04, subdivision 2a.

Sec. 2. Minnesota Statutes 2002, section 147.01, subdivision 5, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

The board shall include the governor's representative as a voting member of the board in the board's discussions and decisions regarding the governor's request. The board shall report to the governor on action taken by the board, including an explanation if no action is deemed necessary.

Sec. 7. Laws 2002, chapter 402, section 21, is amended to read:

Sec. 21. **SUNSET.**

Sections 1 to 19 expire August 1, ~~2004~~ 2005.

Sec. 8. **HEALTH STUDY.**

(a) The commissioner of health must prepare a plan for the development and implementation of a statewide public health data management system in cooperation and consultation with representatives of local public health departments. The plan must provide state and local public health departments with a cost-effective, reliable means for collecting, utilizing, and disseminating public health data. The plan must include cost estimates for the planning and development of a statewide system. Nothing in this section requires the commissioner to collect additional health data.

(b) The plan must be completed and presented to the legislature by January 15, 2005. The plan must comply with Minnesota Statutes, sections 3.195 and 3.197.

Sec. 9. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Presented to the governor May 18, 2004

Signed by the governor May 29, 2004, 12:05 p.m.

#### CHAPTER 280—H.F.No. 2207

*An act relating to health; clarifying that individuals may participate in pharmaceutical manufacturer's rebate programs; amending Minnesota Statutes 2002, section 62J.23, subdivision 2.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2002, section 62J.23, subdivision 2, is amended to read:

Subd. 2. **INTERIM RESTRICTIONS.** (a) From July 1, 1992, until rules are adopted by the commissioner under this section, the restrictions in the federal Medicare antikickback statutes in section 1128B(b) of the Social Security Act, United States Code, title 42, section 1320a-7b(b), and rules adopted under the federal statutes, apply to all persons in the state, regardless of whether the person participates in any state health care program. ~~The commissioner shall approve a transition plan submitted to the~~

Signed by the governor May 29, 2004, 10:05 a.m.

New language is indicated by underline, deletions by ~~strikeout~~.

2005 1Sp2005 c 5 art 2 s 29;  
 2005 Volume 2 not found on HeinOnline  
 Missing p 2679-3220  
 Content collected from Minnesota State Legislature website

## CONTENTS

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### VOLUME 1

	Page
Revisor's Certificate .....	III
Legislative Officers and Members, 2005 .....	IX
Regular Session Laws 2005, Chapters 1 to 159 .....	3

### VOLUME 2

Revisor's Certificate .....	III
Regular Session Laws 2005, Chapters 160 to 169 ...	1803
Proclamation for 2005 First Special Session .....	1981
First Special Session Laws 2005, Chapters 1 to 8 ...	1983
Table 1, Session Laws Amended or Repealed .....	3221
Table 2, Minnesota Statutes New, Amended or Repealed .....	3229
Table 3, Senate and House Files Enacted or Vetoed	3323
Table 4, Special Laws of Local Government Units, 2003 .....	3326
Table 5, Special Laws of Local Government Units, 2004 .....	3330
Table 6, Special Laws of Local Government Units, 2005 .....	3332
Index .....	3337

- 70.21 Sec. 29. Minnesota Statutes 2004, section 121A.15,  
 70.22 subdivision 3, is amended to read:  
 70.23 Subd. 3. [EXEMPTIONS FROM IMMUNIZATIONS.] (a) If a person  
 70.24 is at least seven years old and has not been immunized against  
 70.25 pertussis, the person must not be required to be immunized  
 70.26 against pertussis.  
 70.27 (b) If a person is at least 18 years old and has not  
 70.28 completed a series of immunizations against poliomyelitis, the  
 70.29 person must not be required to be immunized against  
 70.30 poliomyelitis.  
 70.31 (c) If a statement, signed by a physician, is submitted to



70.32 the administrator or other person having general control and  
 70.33 supervision of the school or child care facility stating that an  
 70.34 immunization is contraindicated for medical reasons or that  
 70.35 laboratory confirmation of the presence of adequate immunity  
 70.36 exists, the immunization specified in the statement need not be  
 71.1 required.

71.2 (d) If a notarized statement signed by the minor child's  
 71.3 parent or guardian or by the emancipated person is submitted to  
 71.4 the administrator or other person having general control and  
 71.5 supervision of the school or child care facility stating that  
 71.6 the person has not been immunized as prescribed in subdivision 1  
 71.7 because of the conscientiously held beliefs of the parent or  
 71.8 guardian of the minor child or of the emancipated person, the  
 71.9 immunizations specified in the statement shall not be required.  
 71.10 This statement must also be forwarded to the commissioner of the  
 71.11 Department of Health.

71.12 (e) If the person is under 15 months, the person is not  
 71.13 required to be immunized against measles, rubella, or mumps.

71.14 (f) If a person is at least five years old and has not been  
 71.15 immunized against haemophilus influenza type b, the person is  
 71.16 not required to be immunized against haemophilus influenza type  
 71.17 b.

71.18 (g) If a person who is not a Minnesota resident enrolls in  
 71.19 a Minnesota school online learning course or program that  
 71.20 delivers instruction to the person only by computer and does not  
 71.21 provide any teacher or instructor contact time or require  
 71.22 classroom attendance, the person is not subject to the  
 71.23 immunization, statement, and other requirements of this section.

71.24 **[EFFECTIVE DATE.]** This section is effective the day  
 71.25 following final enactment.

Obtained from

[https://www.revisor.mn.gov/bills/text.php?session=ls84&number=HF141&session\\_number=1&session\\_year=2005&version=list](https://www.revisor.mn.gov/bills/text.php?session=ls84&number=HF141&session_number=1&session_year=2005&version=list)

2006 2006 c 263 art 7 s 2;

833

LAWS of MINNESOTA for 2006

Ch. 263

(E) four members of the house appointed by the house minority leader.

The appointed members of the commission shall serve for a term commencing upon appointment and expiring at the opening of the next regular session of the legislature in the odd-numbered year and until a successor is appointed. A vacancy in the membership of the commission shall be filled for the unexpired term in a manner that will preserve the representation established by this subdivision. Members shall serve until replaced, or until they are not members of the legislative body from which they were appointed. Appointing authorities shall fill vacancies on the commission within 30 days of a vacancy being created.

The commission shall meet in January of each odd-numbered year to elect its chair and other officers as it may determine necessary vice-chair. A chair They shall serve a two-year term, expiring on January 1 in the odd-numbered year following election, and until a successor is elected. The chair and vice-chair shall alternate biennially between the senate and the house. The commission shall meet at the call of the chair or the executive secretary. The members shall serve without compensation but be reimbursed for their reasonable expenses as members of the legislature. The commission may exercise the powers prescribed by section 3.153.

#### Sec. 2. REPEALER.

Minnesota Statutes 2004, sections 3.97, subdivision 3; and 3.979, subdivision 5, are repealed.

Presented to the governor May 22, 2006

Signed by the governor May 31, 2006, 10:45 p.m.

### CHAPTER 263—S.F.No. 2994

*An act relating to education; providing for prekindergarten through grade 12 education, including general education, education excellence, special education, facilities, accounting, and technology, state agencies, early childhood, and technical and conforming amendments; authorizing rulemaking; appropriating money; amending Minnesota Statutes 2004, sections 119A.50, subdivision 1; 119A.52; 119A.53; 119A.54; 120A.20, subdivision 1; 120A.22, subdivision 3; 120B.023; 120B.024; 121A.035; 121A.15, subdivision 10; 123A.06, subdivision 2; 123B.10, subdivision 1; 123B.77, subdivision 3, by adding a subdivision; 123B.91, by adding a subdivision; 124D.02, subdivisions 2, 4; 124D.096; 124D.10, subdivision 16; 124D.11, subdivision 9; 124D.13, subdivisions 2, 3; 124D.61; 124D.68, subdivision 3; 125A.02, subdivision 1; 125A.515, subdivisions 1, 3, 5, 6, 7, 9, 10; 125A.62, subdivision 1; 125A.63, subdivision 4; 125A.65, subdivisions 3, 4, 6, 8, 10; 125A.69, subdivision 3; 125A.75, subdivision 1; 126C.05, subdivision 1; 126C.10, subdivision 6, by adding subdivisions; 126C.21, by adding a subdivision; 126C.44; 127A.41, subdivision 2; 181.101; 299F.30; 626.556, subdivision 3e; Minnesota Statutes 2005 Supplement, sections 120B.021, subdivision 1a; 120B.11, subdivision 2; 120B.131, subdivision 2; 123B.04, subdivision 2; 123B.75, subdivision 5; 123B.76, subdivision 3; 123B.92, subdivisions 1, 5; 124D.095, subdivision 4; 124D.68, subdivision 2; 125A.11, subdivision 1; 125A.79, subdivision 1; 126C.10, subdivisions 24, 31;*

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 7. Minnesota Statutes 2004, section 124D.13, subdivision 3, is amended to read:

Subd. 3. **Substantial parental involvement.** The requirement of substantial parental or other relative involvement in subdivision 2 means that:

(a) parents or other relatives must be physically present much of the time in classes with their children or be in concurrent classes;

(b) parenting education or family education must be an integral part of every early childhood family education program;

(c) early childhood family education appropriations must not be used for traditional day care or nursery school, or similar programs; and

(d) the form of parent involvement common to kindergarten, elementary school, or early childhood special education programs such as parent conferences, newsletters, and notes to parents do not qualify a program under subdivision 2.

Sec. 8. Laws 2005, First Special Session chapter 5, article 7, section 20, subdivision 5, is amended to read:

Subd. 5. **Head Start program.** For Head Start programs under Minnesota Statutes, section 119A.52:

\$ 19,100,000 .... 2006

\$ 19,100,000 .... 2007

Any balance in the first year does not cancel but is available in the second year.

Sec. 9. **REPEALER.**

Minnesota Statutes 2004, section 119A.51, is repealed.

## ARTICLE 7

### TECHNICAL AND CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2005 Supplement, section 120B.11, subdivision 2, is amended to read:

Subd. 2. **Adopting policies.** (a) A school board shall have in place an adopted written policy that includes the following:

(1) district goals for instruction including the use of best practices, district and school curriculum, and achievement for all student subgroups;

(2) a process for evaluating each student's progress toward meeting academic standards and identifying the strengths and weaknesses of instruction and curriculum affecting students' progress;

(3) a system for periodically reviewing and evaluating all instruction and curriculum;

New language is indicated by underline, deletions by ~~strikesout~~.

- (4) a plan for improving instruction, curriculum, and student achievement; and
- (5) an education effectiveness plan aligned with section 122A.625 that integrates instruction, curriculum, and technology.

Sec. 2. Minnesota Statutes 2004, section 121A.15, subdivision 10, is amended to read:

Subd. 10. Requirements for immunization statements. (a) A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(a) For persons enrolled in grades 7 and 12 during the 1996–1997 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(b) Except as specified in paragraph (e), for persons enrolled in grades 7, 8, and 12 during the 1997–1998 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(c) Except as specified in paragraph (e), for persons enrolled in grades 7 through 12 during the 1998–1999 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(d) For persons enrolled in grades 7 through 12 during the 1996–1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(e) (b) A person who has received at least three doses of tetanus and diphtheria toxoids, with the most recent dose given after age six and before age 11, is not required to have additional immunization against diphtheria and tetanus until ten years have elapsed from the person's most recent dose of tetanus and diphtheria toxoid.

(f) (c) The requirement for hepatitis B vaccination shall apply to persons enrolling in kindergarten beginning with the 2000–2001 school term.

(g) (d) The requirement for hepatitis B vaccination shall apply to persons enrolling in grade 7 beginning with the 2001–2002 school term.

Sec. 3. Minnesota Statutes 2005 Supplement, section 123B.04, subdivision 2, is amended to read:

Subd. 2. Agreement. (a) Upon the request of 60 percent of the licensed employees of a site or a school site decision-making team, the school board shall enter into discussions to reach an agreement concerning the governance, management, or control of the school. A school site decision-making team may include the school principal, teachers in the school or their designee, other employees in the school, representatives of pupils in the school, or other members in the community. A school site decision-making team must include at least one parent of a pupil in the school. For purposes of formation of a new site, a school site decision-making team may be a team of teachers that is recognized by the board as a site. The school site decision-making team shall include the school prin-

(l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(m) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(n) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (e), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction.

(o) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

Presented to the governor May 22, 2006

Signed by the governor May 31, 2006, 11:20 p.m.

## CHAPTER 264—S.F.No. 2833

*An act relating to human services; modifying certain requirements for child care programs; changing certain in-service training requirements; requiring early childhood development training; changing certain first aid training requirements; allowing the use of mesh sided playpens or cribs under certain circumstances; regulating crib safety standards; providing for the responsible agency for assessing or investigating reports of maltreatment; regulating medical assistance managed care; enacting a runaway and homeless youth act; establishing the Ramsey County child care pilot project; providing an exception for notification of a variance or set-aside; amending Minnesota Statutes 2004, sections 119B.03, subdivision 4; 245A.023; 245A.14, by adding a subdivision; 256B.692, subdivision 6; 62B.536, subdivision 3c; Minnesota Statutes 2005 Supplement, sections 119B.125, subdivision 2; 245A.14, subdivision 12; 245A.146, subdivisions 3, 4; 245C.22, subdivi-*

New language is indicated by underline, deletions by ~~strikeout~~.

2011 2011 c 76 art 1 s 12,13;

249

LAWS of MINNESOTA 2011

Ch 76

(h) Members of the council are compensated as provided in section 15.059, subdivision 3.

EFFECTIVE DATE. This section is effective the day following final enactment.

Presented to the governor May 23, 2011

Signed by the governor May 24, 2011, 5:01 p.m.

## CHAPTER 75--H.F.No. 695

*An act relating to civil law; extending civil immunity to municipalities that donate public safety equipment; amending Minnesota Statutes 2010, section 466.03, by adding a subdivision.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 466.03, is amended by adding a subdivision to read:

Subd. 24. Used public safety equipment. (a) Any tort claim against a municipality resulting from the use of public safety equipment donated by the municipality to another municipality, unless the claim is a direct result of fraud or intentional misrepresentation.

(b) As used in this subdivision, "public safety equipment" means vehicles and equipment used in firefighter, ambulance and emergency medical treatment services, rescue, and hazardous material response.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to actions arising from incidents occurring on or after that date.

Presented to the governor May 23, 2011

Signed by the governor May 24, 2011, 5:02 p.m.

## CHAPTER 76--S.F.No. 885

*An act relating to legislative enactments; correcting erroneous, ambiguous, and omitted text and obsolete references; removing redundant, conflicting, and superseded provisions; making miscellaneous corrections to laws, statutes, and rules; amending Minnesota Statutes 2010, sections 5.15; 13.04, subdivision 4a; 13.319, subdivision 1; 13.3806, by adding a subdivision; 13.381, subdivision 1; 13.411, subdivision 1; 13.4967, subdivision 1; 13.607, subdivision 1; 13.6401, subdivision 1, by adding a subdivision; 13.6905, subdivision 1, by adding a subdivision; 13.7191, subdivision 1, by adding a subdivision; 13.785, subdivision 1; 13.7931, subdivision 1; 13.841, subdivision 1, by adding a subdivision; 13.851, subdivision 1, by adding a subdivision; 15B.24, subdivision 1; 60A.121, subdivision 3; 82.67, subdivision 3; 115A.072, subdivision 1; 115A.908, subdivision 2; 115B.25, subdivision 8; 115B.34, subdivision 1; 116W.03, subdivision 3; 120B.022, subdivision 1; 121A.15, subdivisions 8, 9; 123B.72, subdivision 3; 123B.76, subdivision 3; 125A.027, subdivision 4; 125A.29; 125A.56, subdivision 1; 127A.43, subdivision 12; 132.027, subdivision 4; 168.1293, subdivision 3; 168D.01, subdivision 4; 168D.02, subdivision 1; 169.771, subdivision 1; 174.82; 203B.06, subdivision 3; 204B.34, subdivision 1; 204C.13, subdivision 6; 205A.10, subdivision 2; 216B.1691, subdivision 3; 216B.1692, subdivisions 1, 2; 216C.01, subdivision 1a; 219.01; 239.002; 244.11, subdivision 3; 245B.031, subdivision 3; 256B.0625, subdivision 14;*

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260D.07; 268.046, subdivision 1; 273.054; 273.063; 273.1103; 279.33; 293.75, subdivision 9; 2971.01, subdivision 16; 299F.56, subdivisions 11, 16; 299F.57, subdivision 1; 299J.03, subdivision 2; 299M.03, subdivision 2; 326B.118; 326B.986, subdivision 4; 326B.992; 383D.411; 394.21, subdivision 3; 394.232; 462.3535, subdivisions 1, 8; 466.07, subdivision 1; 501B.16; 514.977; 515B.1-102; 517.08, subdivision 1b; 518D.314; 524.1-304; 572A.01, subdivision 1; 572A.02, subdivisions 5, 6; 572A.03, subdivision 2; 576.011, subdivision 1; 580.041, subdivision 2; 580.06, subdivision 2; 609.485, subdivision 2; 609.5314, subdivision 3; 609.902, subdivision 4; 611A.033; 628.56; 628.63; 628.68; 630.18; 631.05; Laws 2009, chapter 88, article 2, section 43; Laws 2010, chapter 184, section 18; Laws 2010, chapter 280, section 40; Laws 2010, chapter 382, section 87, subdivision 8; Laws 2010, chapter 389, article 1, sections 7, 8, 9; repealing Minnesota Statutes 2010, sections 462.3535, subdivisions 9, 10; 626.8441, subdivision 1; Laws 2006, chapter 259, article 13, section 10; Laws 2008, chapter 202, section 10; Laws 2009, chapter 82, section 2; Laws 2010, chapter 184, section 7; Laws 2010, chapter 310, article 6, section 1; article 16, section 2; Laws 2010, chapter 359, article 12, section 18; Laws 2010, chapter 392, article 1, section 6; Laws 2010, First Special Session chapter 1, article 15, section 8; Minnesota Rules, part 7890.0120, subpart 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

## ARTICLE 1

### GENERAL

Section 1. Minnesota Statutes 2010, section 5.15, is amended to read:

#### **5.15 ONLINE SIGNATURES, ACKNOWLEDGMENT OR NOTARIZATION ON DOCUMENTS; PENALTIES OF PERJURY.**

(a) No document submitted to the Office of the Secretary of State shall be required to be notarized. Signing a document submitted to the secretary of state constitutes "acknowledgment" as defined in section 358.41, clause (2), and "verification upon oath or affirmation" as defined in section 358.41, clause (3). A person who signs a document submitted to the secretary of state without authority to sign that document or who signs the document knowing that the document is false in any material respect is subject to the penalties of perjury set forth in section 609.48.

(b) Any document submitted to the Office of the Secretary of State online may be signed by any person as agent of any person whose signature is required by law. The signing party must indicate on the application that the person is acting as the agent of the person whose signature would be required and that the person has been authorized to sign on behalf of the applicant. The name of the person signing, entered on the online application, constitutes a valid signature by such an agent.

(c) Any document relating to a filing by a business entity or assumed name, or the filing of a document under chapter 270 270C, 272, 336, or 336A, submitted to the Office of the Secretary of State on paper may be signed by any person as agent of any person whose signature is required by law. The signing party must indicate on the document that it is acting as the agent of the person whose signature would be required and that it has been authorized to sign on behalf of that person.

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Sec. 11. Minnesota Statutes 2010, section 120B.022, subdivision 1, is amended to read:

Subdivision 1. **Elective standards.** (a) A district must establish its own standards in the following subject areas:

- (1) vocational career and technical education; and
- (2) world languages.

A school district must offer courses in all elective subject areas.

(b) World languages teachers and other school staff should develop and implement world languages programs that acknowledge and reinforce the language proficiency and cultural awareness that non-English language speakers already possess, and encourage students' proficiency in multiple world languages. Programs under this paragraph must encompass indigenous American Indian languages and cultures, among other world languages and cultures. The department shall consult with postsecondary institutions in developing related professional development opportunities.

(c) Any Minnesota public, charter, or nonpublic school may award Minnesota World Language Proficiency Certificates or Minnesota World Language Proficiency High Achievement Certificates, consistent with this subdivision.

The Minnesota World Language Proficiency Certificate recognizes students who demonstrate listening, speaking, reading, and writing language skills at the American Council on the Teaching of Foreign Languages' Intermediate-Low level on a valid and reliable assessment tool. For languages listed as Category 3 by the United States Foreign Service Institute or Category 4 by the United States Defense Language Institute, the standard is Intermediate-Low for listening and speaking and Novice-High for reading and writing.

The Minnesota World Language Proficiency High Achievement Certificate recognizes students who demonstrate listening, speaking, reading, and writing language skills at the American Council on the Teaching of Foreign Languages' Pre-Advanced level for K-12 learners on a valid and reliable assessment tool. For languages listed as Category 3 by the United States Foreign Service Institute or Category 4 by the United States Defense Language Institute, the standard is Pre-Advanced for listening and speaking and Intermediate-Mid for reading and writing.

Sec. 12. Minnesota Statutes 2010, section 121A.15, subdivision 8, is amended to read:

Subd. 8. **Report.** The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner on all persons enrolled in the school. The superintendent of each district shall file a report with the commissioner for all persons within the district receiving instruction in a home school in compliance with sections 120A.22 and 120A.24. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, and 4 to the superintendent of the district in which the person resides by October 1 of each school year. The school report must be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local districts by the commissioner of health. The school report must state the number of persons attending the school, the number of persons who

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have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report must be filed with the commissioner of education within 60 days of the commencement of each new school term. Upon request, a district must be given a 60-day extension for filing the school report. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health. The child care facility report must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report must be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to sections ~~125A.05~~ 125A.03 and 125A.06, nor for child care facilities in which at least 75 percent of children in the facility participate on a onetime only or occasional basis to a maximum of 45 hours per child, per month.

Sec. 13. Minnesota Statutes 2010, section 121A.15, subdivision 9, is amended to read:

Subd. 9. **Definitions.** As used in this section the following terms have the meanings given them.

(a) "Elementary or secondary school" includes any public school as defined in section 120A.05, subdivisions 9, 11, 13, and 17, or nonpublic school, church, or religious organization, or home school in which a child is provided instruction in compliance with sections 120A.22 and 120A.24.

(b) "Person enrolled in any elementary or secondary school" means a person born after 1956 and enrolled in grades kindergarten through 12, and a child with a disability receiving special instruction and services as required in sections 125A.03 to 125A.24 and 125A.65, excluding a child being provided services according to section ~~125A.05~~, paragraph (c), or 125A.06, paragraph (d) at the home or bedside of the child or in other states.

(c) "Child care facility" includes those child care programs subject to licensure under chapter 245A, and Minnesota Rules, chapters 9502 and 9503.

(d) "Family child care" means child care for no more than ten children at one time of which no more than six are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

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(c) "Group family child care" means child care for no more than 14 children at any one time. The total number of children includes all children of any caregiver when the children are present in the residence.

Sec. 14. Minnesota Statutes 2010, section 123B.72, subdivision 3, is amended to read:

**Subd. 3. Certification.** Prior to occupying or reoccupying a school facility affected by this section, a school board or its designee shall submit a document prepared by a system inspector to the building official or to the commissioner, verifying that the facility's heating, ventilation, and air conditioning system has been installed and operates according to design specifications and code, according to section 123B.71, subdivision 9, clause (44) (12). A systems inspector shall also verify that the facility's design will provide the ability for monitoring of outdoor airflow and total airflow of ventilation systems in new school facilities and that any heating, ventilation, or air conditioning system that is installed or modified for a project subject to this section must provide a filtration system with a current ASHRAE standard.

Sec. 15. Minnesota Statutes 2010, section 123B.76, subdivision 3, is amended to read:

**Subd. 3. Expenditures by building.** (a) For the purposes of this section, "building" means education site as defined in section 123B.04, subdivision 1.

(b) Each district shall maintain separate accounts to identify general fund expenditures for each building. All expenditures for regular instruction, secondary vocational instruction, and school administration must be reported to the department separately for each building. All expenditures for special education instruction, instructional support services, and pupil support services provided within a specific building must be reported to the department separately for each building. Salary expenditures reported by building must reflect actual salaries for staff at the building and must not be based on districtwide averages. All other general fund expenditures may be reported by building or on a districtwide basis.

(c) The department must annually report information showing school district general fund expenditures per pupil by program category for each building and estimated school district general fund revenue generated by pupils attending each building on its Web site. For purposes of this report:

(1) expenditures not reported by building shall be allocated among buildings on a uniform per pupil basis;

(2) basic skills revenue shall be allocated according to section 126C.10, subdivision 4;

(3) secondary sparsity revenue and elementary sparsity revenue shall be allocated according to section 126C.10, subdivisions 7 and 8;

(4) alternative teacher compensation revenue shall be allocated according to section 122A.415, subdivision 1;

(5) other general education revenue shall be allocated on a uniform per pupil unit basis;

(6) first grade preparedness aid shall be allocated according to section 124D.081;

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LAWS of MINNESOTA  
2011 FIRST SPECIAL SESSION

Ch 11, art 1, s 1

## CHAPTER 11—H.F.No. 26

*An act relating to education; providing for policy and funding for family, adult, and prekindergarten through grade 12 education, including general education, academic excellence, special programs, facilities and technology, accounting and nutrition, libraries, early childhood education, prevention, self-sufficiency and lifelong learning, student transportation, state agencies, and forecast adjustments; requiring reports; appropriating money; amending Minnesota Statutes 2010, sections 11A.16, subdivision 5; 13D.02, by adding a subdivision; 16A.152, subdivision 2; 119A.50, subdivision 3; 120A.24; 120A.41; 120B.023, subdivision 2; 120B.07; 120B.12; 120B.30, subdivisions 1, 3, 4; 120B.31, subdivision 4; 120B.36, subdivisions 1, 2; 121A.15, subdivision 8, as amended; 122A.09, subdivision 4, as amended; 122A.16, as amended; 122A.40, subdivisions 5, 6, 8, 9; 122A.41, subdivisions 1, 2, 3, 5, 6; 123A.55; 123B.143, subdivision 1; 123B.147, subdivision 3; 123B.41, subdivisions 2, 5; 123B.54; 123B.57; 123B.63, subdivision 3; 123B.71, subdivision 5; 123B.72, subdivision 3; 123B.75, subdivision 5; 123B.88, subdivision 13, by adding a subdivision; 123B.92, subdivisions 1, as amended, 5; 124D.09, subdivisions 5, 7, 8; 124D.091, subdivision 2; 124D.10, as amended; 124D.11, subdivisions 4, 9; 124D.19, subdivision 3; 124D.36; 124D.37; 124D.38, subdivision 3; 124D.385, subdivision 3; 124D.39; 124D.40; 124D.42; 124D.44; 124D.45, subdivision 2; 124D.4531, subdivision 1; 124D.531, subdivisions 1, 4; 124D.59, subdivision 2; 125A.02, subdivision 1; 125A.0942, subdivision 3; 125A.15; 125A.21, subdivisions 2, 3, 5, 7; 125A.51; 125A.515, by adding a subdivision; 125A.69, subdivision 1; 125A.79, subdivision 1; 126C.10, subdivisions 1, 2, 8a, 14, by adding a subdivision; 126C.126; 126C.15, subdivision 2; 126C.20; 126C.40, subdivision 1; 126C.41, subdivision 2; 126C.44; 126C.50; 127A.33; 127A.42, subdivision 2; 127A.43; 127A.441; 127A.45, subdivisions 2, 3, 6a, by adding a subdivision; 134.195, subdivision 8; 171.05, subdivision 2; 171.17, subdivision 1; 171.22, subdivision 1; Laws 1999, chapter 241, article 4, section 25, by adding a subdivision; Laws 2009, chapter 96, article 1, section 24, subdivisions 2, as amended, 3, 4, as amended, 5, as amended, 6, as amended, 7, as amended; article 2, section 67, subdivisions 2, as amended, 3, as amended, 4, as amended, 6, 9, as amended; article 3, section 21, subdivisions 3, 4, as amended; article 4, section 12, subdivision 6, as amended; article 5, section 13, subdivisions 2, 3, 4, as amended; article 6, section 11, subdivisions 3, as amended, 4, as amended, 8, as amended, 12, as amended; proposing coding for new law in Minnesota Statutes, chapters 120B; 124D; repealing Minnesota Statutes 2010, sections 120A.26, subdivisions 1, 2; 123B.03; 124D.11, subdivision 8; 124D.38, subdivisions 4, 5, 6; 124D.86; 124D.871; 124D.88; 125A.54; 126C.10, subdivision 5; 126C.457; 127A.46.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

## ARTICLE 1

## GENERAL EDUCATION

Section 1. Minnesota Statutes 2010, section 11A.16, subdivision 5, is amended to read:

**Subd. 5. Calculation of income.** As of the end of each fiscal year, the state board shall calculate the investment income earned by the permanent school fund. The investment income earned by the fund shall equal the amount of interest on debt securities ~~and~~, dividends on equity securities, and interest earned on certified monthly earnings prior to the transfer to the Department of Education. Gains and losses arising from the sale of securities shall be apportioned as follows:

(a) If the sale of securities results in a net gain during a fiscal year, the gain shall be apportioned in equal installments over the next ten fiscal years to offset net losses in

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of the United States armed forces and deploys for 60 days or longer to a military base or installation outside Minnesota for the purpose of attending basic military training or military school and, if required by the military, performing other military duty. The active service may be in accordance with United States Code, title 10 or title 32.

Subd. 2. Application. An eligible person may apply to the commissioner of education for an early graduation military service bonus. The application must be in the form and manner specified by the commissioner.

Subd. 3. Verification and award. Upon verification of the qualifying student's course completion necessary for graduation and eligibility for the military service bonus, the commissioner must issue payment to that person. Payment amounts must be determined according to section 120B.08, subdivision 2.

EFFECTIVE DATE. This section is effective for fiscal year 2012 and later.

Sec. 7. Minnesota Statutes 2010, section 121A.15, subdivision 8, as amended by Laws 2011, chapter 76, article 1, section 12, is amended to read:

**Subd. 8. Report.** The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner on all persons enrolled in the school. The superintendent of each district shall file a report with the commissioner for all persons within the district receiving instruction in a home school in compliance with sections 120A.22 and 120A.24. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, ~~and 4,~~ and 12 to the superintendent of the district in which the person resides by October 1 of ~~each school year~~ the first year of their homeschooling in Minnesota and the grade 7 year. The school report must be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local districts by the commissioner of health. The school report must state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report must be filed with the commissioner of education within 60 days of the commencement of each new school term. Upon request, a district must be given a 60-day extension for filing the school report. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health. The child care facility report must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report must be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of

New language is indicated by underline, deletions by ~~strikeout~~.

health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to sections 125A.03 and 125A.06, nor for child care facilities in which at least 75 percent of children in the facility participate on a onetime only or occasional basis to a maximum of 45 hours per child, per month.

Sec. 8. Minnesota Statutes 2010, section 123A.55, is amended to read:

**123A.55 CLASSES, NUMBER.**

Districts shall be classified as common, independent, ~~or~~ special, or charter districts. Each of which ~~common, independent, and special~~ district is a public corporation. Each district shall be known by its classification and assigned a number by the commissioner so that its title will be ..... School District No. ....

**EFFECTIVE DATE.** This section is effective March 1, 2012, and later.

Sec. 9. Minnesota Statutes 2010, section 123B.41, subdivision 2, is amended to read:

Subd. 2. **Textbook.** "Textbook" means any book or book substitute, including electronic books as well as other printed materials delivered electronically, which a pupil uses as a text or text substitute in a particular class or program in the school regularly attended and a copy of which is expected to be available for the individual use of each pupil in this class or program. The term shall be limited to books, workbooks, or manuals, whether bound or in loose-leaf form, as well as electronic books and other printed materials delivered electronically, intended for use as a principal source of study material for a given class or a group of students. The term includes only such secular, neutral and nonideological textbooks as are available, used by, or of benefit to Minnesota public school pupils.

Sec. 10. Minnesota Statutes 2010, section 123B.41, subdivision 5, is amended to read:

Subd. 5. **Individualized instructional or cooperative learning materials.** "Individualized instructional or cooperative learning materials" means educational materials which:

- (a) are designed primarily for individual pupil use or use by pupils in a cooperative learning group in a particular class or program in the school the pupil regularly attends;
- (b) are secular, neutral, nonideological and not capable of diversion for religious use; and
- (c) are available, used by, or of benefit to Minnesota public school pupils.

Subject to the requirements in clauses (a), (b), and (c), "individualized instructional or cooperative learning materials" include, but are not limited to, the following if they do not fall within the definition of "textbook" in subdivision 2: published materials; periodicals; documents; pamphlets; photographs; reproductions; pictorial or graphic works; prerecorded video programs; prerecorded tapes, cassettes and other sound recordings;

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The 2013 appropriation includes \$0 for 2012 and \$9,776,000 for 2013.

This is a onetime appropriation.

Sec. 37. REPEALER.

Minnesota Statutes 2010, sections 120A.26, subdivisions 1 and 2; 126C.10, subdivision 5; and 126C.457, are repealed.

## ARTICLE 2

### ACADEMIC EXCELLENCE

Section 1. Minnesota Statutes 2010, section 13D.02, is amended by adding a subdivision to read:

Subd. 5. School boards; interactive technology with an audio and visual link. A school board conducting a meeting under this section may use interactive technology with an audio and visual link to conduct the meeting if the school board complies with all other requirements under this section.

Sec. 2. Minnesota Statutes 2010, section 120B.023, subdivision 2, is amended to read:

Subd. 2. **Revisions and reviews required.** (a) The commissioner of education must revise and appropriately embed technology and information literacy standards consistent with recommendations from school media specialists into the state's academic standards and graduation requirements and implement a review cycle for state academic standards and related benchmarks, consistent with this subdivision. During each review cycle, the commissioner also must examine the alignment of each required academic standard and related benchmark with the knowledge and skills students need for college readiness and advanced work in the particular subject area.

(b) The commissioner in the 2006-2007 school year must revise and align the state's academic standards and high school graduation requirements in mathematics to require that students satisfactorily complete the revised mathematics standards, beginning in the 2010-2011 school year. Under the revised standards:

(1) students must satisfactorily complete an algebra I credit by the end of eighth grade; and

(2) students scheduled to graduate in the 2014-2015 school year or later must satisfactorily complete an algebra II credit or its equivalent.

The commissioner also must ensure that the statewide mathematics assessments administered to students in grades 3 through 8 and 11 are aligned with the state academic standards in mathematics, consistent with section 120B.30, subdivision 1, paragraph (b). The commissioner must implement a review of the academic standards and related benchmarks in mathematics beginning in the 2015-2016 school year.

(c) The commissioner in the 2007-2008 school year must revise and align the state's academic standards and high school graduation requirements in the arts to require that students satisfactorily complete the revised arts standards beginning in the 2010-2011

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\*\*\* Current through the 2013 Regular Session and 1st and 2nd Extraordinary Sessions \*\*\*

TITLE 41. PUBLIC HEALTH  
CHAPTER 23. CONTAGIOUS AND INFECTIOUS DISEASES; QUARANTINE  
IN GENERAL

[GO TO MISSISSIPPI STATUTES ARCHIVE DIRECTORY](#)

Miss. Code Ann. § 41-23-37 (2014)

§ 41-23-37. Immunization practices for control of vaccine preventable diseases; school attendance by unvaccinated children

Whenever indicated, the state health officer shall specify such immunization practices as may be considered best for the control of vaccine preventable diseases. A listing shall be promulgated annually or more often, if necessary.

Except as provided hereinafter, it shall be unlawful for any child to attend any school, kindergarten or similar type facility intended for the instruction of children (hereinafter called "schools"), either public or private, with the exception of any legitimate home instruction program as defined in Section 37-13-91, Mississippi Code of 1972, for ten (10) or less children who are related within the third degree computed according to the civil law to the operator, unless they shall first have been vaccinated against those diseases specified by the state health officer.

A certificate of exemption from vaccination for medical reasons may be offered on behalf of a child by a duly licensed physician and may be accepted by the local health officer when, in his opinion, such exemption will not cause undue risk to the community.

Certificates of vaccination shall be issued by local health officers or physicians on forms specified by the Mississippi State Board of Health. These forms shall be the only acceptable means for showing compliance with these immunization requirements, and the responsible school officials shall file the form with the child's record.



If a child shall offer to enroll at a school without having completed the required vaccinations, the local health officer may grant a period of time up to ninety (90) days for such completion when, in the opinion of the health officer, such delay will not cause undue risk to the child, the school or the community. No child shall be enrolled without having had at least one (1) dose of each specified vaccine.

Within thirty (30) days after the opening of the fall term of school (on or before October 1 of each year) the person in charge of each school shall report to the county or local health officer, on forms provided by the Mississippi State Board of Health, the number of children enrolled by age or grade or both, the number fully vaccinated, the number in process of completing vaccination requirements, and the number exempt from vaccination by reason for such exemption.

Within one hundred twenty (120) days after the opening of the fall term (on or before December 31), the person in charge of each school shall certify to the local or county health officer that all children enrolled are in compliance with immunization requirements.

For the purpose of assisting in supervising the immunization status of the children the local health officer, or his designee, may inspect the children's records or be furnished certificates of immunization compliance by the school.

It shall be the responsibility of the person in charge of each school to enforce the requirements for immunization. Any child not in compliance at the end of ninety (90) days from the opening of the fall term must be suspended until in compliance, unless the health officer shall attribute the delay to lack of supply of vaccine or some other such factor clearly making compliance impossible.

Failure to enforce provisions of this section shall constitute a misdemeanor and upon conviction be punishable by fine or imprisonment or both.

**HISTORY:** SOURCES: Laws, 1978, ch. 530, 1; Laws, 1983, ch. 522, § 9, eff from and after July 1, 1983.

**NOTES:** CROSS REFERENCES. --Powers of boards of trustees of school districts to require the vaccination of school children, see § 37-7-301.

Inclusion of immunization information in pupils' permanent records, see § 37-15-1.



Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

## LexisNexis 50 State Surveys, Legislation & Regulations

### Childhood & Student Vaccinations

## JUDICIAL DECISIONS

### I. Under Current Law

#### 1. In general

#### 2.-5. [Reserved for future use]

### II. Under Former Law

#### 6. Under former § 41-23-7

#### 7. Under former § 41-23-23

### I. UNDER CURRENT LAW.

#### 1. IN GENERAL.

Section 41-23-37 serves an overriding and compelling public interest which extends to the exclusion of a child until immunization has been effected; the provision of § 41-23-37 providing an exemption because of religious belief is in violation of the Fourteenth Amendment to the United States Constitution and is void. Brown v. Stone, 378 So. 2d 218 (Miss. 1979), cert. denied, 449 U.S. 887, 101 S. Ct. 242, 66 L. Ed. 2d 112 (1980).

#### 2.-5. [RESERVED FOR FUTURE USE].

### II. UNDER FORMER LAW.

#### 6. UNDER FORMER § 41-23-7.

This section [Code 1942, § 7039] referred to in upholding the validity of a municipal ordinance requiring smallpox vaccination of school children. Hartman v. May, 168 Miss. 477, 151 So. 737, 93 A.L.R. 1408 (1934).

#### 7. UNDER FORMER § 41-23-23.

This section [Code 1942, § 7034] referred to in upholding the validity of a municipal ordinance requiring smallpox vaccination of school children. Hartman v. May, 168 Miss. 477, 151 So. 737, 93 A.L.R. 1408 (1934).

## RESEARCH REFERENCES

ALR. Power of court or other public agency to order vaccination over parental religious objection. 94 A.L.R.5th 613.

AM JUR. 79 Am. Jur. 2d, Welfare Laws §§ 5-46.

1978 1978, ch. 530, 1; (Approved April 21, 1978)

Chapters 528-530

STATE OF MISSISSIPPI, 1978

1113

purposes and in the same manner as provided in Sections 65-1-3 and 65-1-9. Such bonds may be consolidated with bonds required in the aforementioned sections.

Section 2. This act shall take effect and be in force from and after its passage.

Approved: April 21, 1978

## CHAPTER 529

### SENATE BILL NO. 2578

AN ACT to amend Section 89-5-53, Mississippi Code of 1972, to increase the fee charged by the chancery clerk for filing and indexing each notice of a federal tax lien and each certificate of discharge thereon from 25¢ to \$2.50.

*Be it enacted by the Legislature of the State of Mississippi:*

Section 1. Section 89-5-53, Mississippi Code of 1972, is amended as follows:

89-5-53. The chancery clerk shall receive Two Dollars Fifty Cents (\$2.50) for filing and indexing each notice of lien and each certificate of discharge.

Section 2. This act shall take effect and be in force from and after July 1, 1978.

Approved: April 21, 1978

## CHAPTER 530

### SENATE BILL NO. 2650

AN ACT to require certain immunizations as prerequisite for school attendance; and for related purposes.

*Be it enacted by the Legislature of the State of Mississippi:*

Section 1. Whenever indicated, the State Health Officer shall specify such immunization practices as may be considered best for the control of vaccine preventable diseases. A listing shall be promulgated annually or more often, if necessary.

Except as provided hereinafter, it shall be unlawful for any child to attend any school, kindergarten or similar type facility intended for the instruction of children (hereinafter called "schools"), either public or private, unless they shall first have been vaccinated against those diseases specified by the State Health Officer.

A certificate of exemption from vaccination for medical reasons may be offered on behalf of a child by a duly licensed physician and may be accepted by the local health officer when, in his opinion, such exemption will not cause undue risk to the com-

munity. A certificate of religious exemption may be offered on behalf of a child by an officer of a church of a recognized denomination. This certificate shall certify that parents or guardians of the child are bona fide members of a recognized denomination whose religious teachings require reliance on prayer or spiritual means of healing.

Certificates of vaccination shall be issued by local health officers or physicians on forms specified by the Mississippi State Board of Health. These forms shall be the only acceptable means for showing compliance with these immunization requirements, and the responsible school officials shall post or file the form with the child's record.

If a child shall offer to enroll at a school without having completed the required vaccinations, the local health officer may grant a period of time up to ninety (90) days for such completion when, in the opinion of the health officer, such delay will not cause undue risk to the child, the school or the community. No child shall be enrolled without having had at least one (1) dose of each specified vaccine.

Within thirty (30) days after the opening of the fall term of school (on or before October 1 of each year) the person in charge of each school shall report to the county or local health officer, on forms provided by the Mississippi State Board of Health, the number of children enrolled by age or grade or both, the number fully vaccinated, the number in process of completing vaccination requirements, and the number exempt from vaccination by reason for such exemption.

Within one hundred twenty (120) days after the opening of the fall term (on or before December 31), the person in charge of each school shall certify to the local or county health officer that all children enrolled are in compliance with immunization requirements.

For the purpose of assisting in supervising the immunization status of the children the local health officer, or his designee, shall be considered, ex officio, a member of the staff and may inspect the children's records or be furnished relevant information from such records.

It shall be the responsibility of the person in charge of each school to enforce the requirements for immunization. Any child not in compliance at the end of ninety (90) days from the opening of the fall term must be suspended until in compliance, unless the health officer shall attribute the delay to lack of supply of vaccine or some other such factor clearly making compliance impossible.

Failure to enforce provisions of this act shall constitute a mis-

demeanor and upon conviction be punishable by fine or imprisonment or both.

Section 2. This act shall take effect and be in force from and after its passage; provided, however, that it shall be applicable only to children through and including Grades 1 through 8 during the 1978-1979 school year and up through Grade 10 during the 1979-1980 school year and shall apply to all children up through Grade 12, effective with the fall term of 1980 and thereafter.

Approved: April 21, 1978

## CHAPTER 531

### SENATE BILL NO. 2748

AN ACT to amend Section 9-1-36, Mississippi Code of 1972, to authorize the hiring of law clerks by circuit judges and chancellors; to provide for the establishment of the office of court administrator in the circuit, chancery and county courts; to establish the method of appointment of court administrator; to set forth the duties of such officer; and for related purposes.

*Be it enacted by the Legislature of the State of Mississippi:*

Section 1. Section 9-1-36, Mississippi Code of 1972, is amended as follows:

9-1-36. (1) Each circuit judge and chancellor shall receive an office operating allowance for the expenses of operating the office of such circuit judge and chancellor, including retaining a law clerk, legal research, stenographic help, stationery, stamps, telephone, office rent, and other items and expenditures necessary and incident to maintaining the office of circuit judge and chancellor. Such allowance shall be paid only to the extent of actual expenses incurred by any such judge as itemized and certified by such judge to the State Auditor and then in an amount of not more than Four Thousand Dollars (\$4,000.00) per annum; provided, however, that such circuit judge or chancellor may expend sums in excess thereof from the compensation otherwise provided for his office. No part of this expense or allowance shall be used to pay an official court reporter for services rendered to said court.

(2) Title to all tangible property, excepting stamps, stationery and minor expendable office supplies, procured with funds authorized by this section, shall be and forever remain in the State of Mississippi to be used by the circuit judge or chancellor during the term of his office and thereafter by his successors.

Section 2. (1) The judges and chancellors of judicial districts, including chancery, circuit and county courts, may, in their discretion, jointly or independently, establish the office of court administrator in any county by an order entered on the minutes of each participating court in the county.

1983 Laws, 1983, ch. 522, § 9, (Effective from and after July 1, 1983)

Chapter 522

STATE OF MISSISSIPPI, 1983

689

SECTION 25. On July 1, 1983, the State Department of Rehabilitation Services shall assume all power, authority, duties and functions of those agencies transferred under this act. All records, personnel, property and unexpended balances of appropriations, allocations or other funds of the transferred agencies or which relate to transferred functions shall be transferred to the department on July 1, 1983.

SECTION 26. (1)(a) Each officer or agency subject to the provisions of this act shall assist with the fullest degree of reasonable cooperation any other officer or agency in carrying out the intent and purpose of this act.

(b) Each officer or agency subject to the provisions of this act is hereby authorized and empowered to promulgate such rules and regulations not otherwise in conflict with this act necessary to accomplish an orderly transition pursuant to this act.

(2)(a) Effective July 1, 1983, all employees of any agency abolished or affected by this act may be transferred according to the merger of their duties mandated by this act.

(b) It is the intent of the Legislature that the number of persons employed by the department as the result of the consolidation required by this act shall be reduced where possible.

SECTION 27. This act shall take effect and be in force from and after July 1, 1983.

Approved: April 13, 1983

CHAPTER 522  
SENATE BILL NO. 2345

AN ACT RELATING TO THE REGULATORY AUTHORITY OF THE STATE BOARD OF HEALTH; TO AMEND SECTION 41-3-15, MISSISSIPPI CODE OF 1972, TO AUTHORIZE DELEGATION OF APPOINTING AUTHORITY BY THE EXECUTIVE OFFICER; TO AMEND SECTION 41-3-59, MISSISSIPPI CODE OF 1972, TO INCLUDE VIOLATION OF MUNICIPAL HEALTH ORDINANCES AMONG THE VIOLATIONS PUNISHABLE BY A MISDEMEANOR AND TO INCREASE THE PENALTY THEREFOR; TO AMEND SECTION 41-23-1, MISSISSIPPI CODE OF 1972, TO REVISE THE LIST OF DISEASES TO BE REPORTED TO THE STATE BOARD OF HEALTH; TO AMEND SECTION 41-23-5, MISSISSIPPI CODE OF 1972, TO DEFINE THE INVESTIGATORY AUTHORITY OF THE STATE BOARD OF HEALTH RELATIVE TO EPIDEMIC CONTAGIOUS DISEASES; TO AMEND SECTIONS 41-23-17 AND 41-23-29, MISSISSIPPI CODE OF 1972, TO REFER TO VENEREAL DISEASE AS SEXUALLY TRANSMITTED DISEASE; TO AMEND SECTION 41-23-30, MISSISSIPPI CODE OF 1972, TO REMOVE THE PROVISION THAT TESTING FOR VENEREAL DISEASE SHALL BE FREE; TO AMEND SECTION 41-23-33, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE BOARD OF HEALTH MAY CALL UPON THE FEDERAL GOVERNMENT IN THE EVENT OF HEALTH EMERGENCIES; TO AMEND SECTION 41-23-37, MISSISSIPPI CODE OF 1972, TO REMOVE THE RELIGIOUS EXEMPTION FROM THE SCHOOL IMMUNIZATION REQUIREMENT WITH CERTAIN EXCEPTIONS, AND TO AUTHORIZE SCHOOLS TO FURNISH CERTIFICATES OF IMMUNIZATION COMPLIANCE TO THE LOCAL HEALTH OFFICER; TO AMEND SECTIONS 41-24-1 AND 41-24-3, MISSISSIPPI CODE OF 1972, TO REMOVE AGE REQUIREMENTS IN THE SICKLE CELL TESTING PROGRAM; TO AMEND SECTION 41-25-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE AUTHORITY OF THE STATE BOARD OF HEALTH CONCERNING DISINFECTION AND SANITATION; TO AMEND SECTION 41-29-111, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE BOARD OF HEALTH SHALL RECOMMEND RATHER THAN DESIGNATE THE APPROPRIATE SCHEDULE FOR CONTROLLED SUBSTANCES; TO AMEND SECTIONS 41-29-125, 41-29-133, 41-29-167 AND 41-29-171, MISSISSIPPI CODE OF 1972, TO TRANSFER CERTAIN DUTIES OF THE STATE BOARD OF HEALTH UNDER THE UNIFORM CONTROLLED SUBSTANCES LAW TO THE STATE BOARD OF MEDICAL LICENSURE; TO PROVIDE THAT THE STATE BOARD OF DENTAL EXAMINERS SHALL PERFORM CERTAIN DUTIES UNDER THE UNIFORM CONTROLLED SUBSTANCES LAW; TO AMEND SECTIONS 41-33-1 THROUGH 41-33-13, MISSISSIPPI CODE OF 1972, TO REMOVE REFERENCES TO THE TUBERCULOSIS SANATORIUM OF MISSISSIPPI AND TO PROVIDE FOR

THE DISCHARGE OF TUBERCULOSIS PATIENTS; TO AMEND SECTIONS 41-49-1, 41-49-3, 41-49-5 AND 41-49-9, MISSISSIPPI CODE OF 1972, TO DEFINE THE RESPONSIBILITIES OF THE STATE BOARD OF HEALTH IN REGULATING SANITATION IN HOTELS AND INNS; TO AMEND SECTIONS 41-53-1, 41-53-5, 41-53-9 AND 41-53-11, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE INOCULATION OF DOGS AND CATS OVER THREE MONTHS OLD AGAINST RABIES; TO AMEND SECTIONS 41-57-21 AND 41-57-23, MISSISSIPPI CODE OF 1972, TO CLARIFY REQUIREMENTS FOR CHANGE OF BIRTH RECORDS; TO AMEND SECTIONS 41-57-27 AND 41-57-59, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTY FOR VIOLATION OF THE STATUTES REGULATING VITAL STATISTICS; TO AMEND SECTION 41-59-41, MISSISSIPPI CODE OF 1972, TO DEFINE THE TRAFFIC VIOLATIONS UPON WHICH AN ASSESSMENT IS IMPOSED FOR EMERGENCY MEDICAL SERVICES; TO AMEND SECTION 43-20-5, MISSISSIPPI CODE OF 1972, TO REMOVE SPECIFICATION OF A SPECIFIC DIVISION WITHIN THE STATE BOARD OF HEALTH AS THE LICENSING AGENCY FOR CHILD CARE FACILITIES; TO AMEND SECTIONS 41-59-7, 43-20-7, 45-14-9, 45-23-7 AND 73-38-15, MISSISSIPPI CODE OF 1972, TO PRESCRIBE THE UNIFORM PER DIEM COMPENSATION FOR MEMBERS OF ADVISORY COUNCILS TO THE STATE BOARD OF HEALTH; TO CREATE SECTIONS 43-20-12, 73-38-36 AND 75-74-19, MISSISSIPPI CODE OF 1972, AND TO AMEND SECTION 73-14-47, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN LICENSE FEES ASSESSED BY THE STATE BOARD OF HEALTH SHALL BE DEPOSITED IN SPECIAL FUNDS IN THE STATE TREASURY TO BE APPROPRIATED BY THE LEGISLATURE; TO AMEND SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT PREMARITAL TESTING BE FREE OF CHARGE; TO AMEND SECTION 93-17-21, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT A CERTIFIED COPY OF A DECREE OF ADOPTION BE RETAINED BY THE BUREAU OF VITAL STATISTICS; TO REPEAL SECTIONS 41-23-3, 41-23-7 THROUGH 41-23-11, 41-23-15 THROUGH 41-23-25 AND 41-23-35, MISSISSIPPI CODE OF 1972, WHICH DEFINE THE PENALTY FOR FALSELY DISSEMINATING RUMORS OF VIRULENT EPIDEMIC CONTAGIOUS DISEASES, PROVIDE FOR ACTIONS BY THE STATE BOARD OF HEALTH UPON AN OUTBREAK OF SUCH CONTAGIOUS DISEASES, PROVIDE FOR THE APPROPRIATION OF COUNTY AND MUNICIPAL FUNDS FOR THE SUPPRESSION OF DISEASES, DEFINE THE AUTHORITY OF THE BOARD OF HEALTH TO ESTABLISH QUARANTINES, ESTABLISH COMPULSORY SMALLPOX VACCINATION, PROHIBIT PERSONS WHO HAVE VENEREAL DISEASE FROM HAVING SEXUAL INTERCOURSE, AND PROVIDE A PENALTY FOR THE VIOLATION OF CERTAIN HEALTH REGULATIONS; TO REPEAL SECTIONS 41-25-3 THROUGH 41-25-11, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE REGULATION OF DISINFECTION AND SANITATION OF BUILDINGS BY THE STATE BOARD OF HEALTH AND FOR THE APPROPRIATION OF FUNDS BY THE BOARDS OF SUPERVISORS FOR SCREENING, FUMIGATING AND OILING; TO REPEAL SECTIONS 41-33-17 THROUGH 41-33-39, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE TUBERCULOSIS SANATORIUM OF MISSISSIPPI AND THE MANAGEMENT THEREOF, AND SECTION 41-53-3, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE PROCUREMENT AND STORAGE OF RABIES VIRUS; TO AMEND SECTION 41-5-44, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE REPEAL OF CERTAIN CODE SECTIONS IN THIS ACT; AND FOR RELATED PURPOSES.

*Be it enacted by the Legislature of the State of Mississippi:*

SECTION 1. Section 41-3-15, Mississippi Code of 1972, is amended as follows:

41-3-15. (1) There shall be a State Department of Health which shall be organized into such bureaus and divisions as are considered necessary by the executive officer, and shall be assigned appropriate functions as are required of the State Board of Health by law, subject to the approval of the board.

(2) The State Board of Health shall have general supervision of the health interests of the people of the state and to exercise the rights, powers and duties of those acts which it is authorized by law to enforce.

(3) The State Board of Health shall have authority:

(a) To make investigations and inquiries with respect to the causes of disease and death, and to investigate the effect of environment, including conditions of employment and other conditions which may affect health, and to make such other investigations as it may deem necessary for the preservation and improvement of health.

**SECTION 4.** Section 41-23-5, Mississippi Code of 1972, is amended as follows:

41-23-5. The State Department of Health shall have the authority to investigate and control the causes of epidemic, infectious and other disease affecting the public health, including the authority to establish, maintain and enforce isolation and quarantine, and in pursuance thereof, to exercise such physical control over property and individuals as the department may find necessary for the protection of the public health.

**SECTION 5.** Section 41-23-27, Mississippi Code of 1972, is amended as follows:

41-23-27. The State Board of Health shall have full power to isolate, quarantine or otherwise confine, intern, and treat such person afflicted with such infectious sexually transmitted disease for such time and under such restrictions as may seem proper. Said board shall have full power to pass all such rules and regulations as to the isolation, quarantine, confinement, internment and treatment as may be needful.

Any person knowingly violating any rule or regulation promulgated by the State Board of Health, under the authority of this section, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by fine or imprisonment or both.

**SECTION 6.** Section 41-23-29, Mississippi Code of 1972, is amended as follows:

41-23-29. Any person suspected of being afflicted with any such infectious sexually transmitted disease shall be subject to physical examination and inspection by any representative of the State Board of Health. For failure or refusal to allow such inspection or examination, such person may be punished as for a misdemeanor.

**SECTION 7.** Section 41-23-30, Mississippi Code of 1972, is amended as follows:

41-23-30. County health departments shall provide testing for and treatment of sexually transmitted disease. Such testing and/or treatment shall be kept in strict confidence. The county boards of supervisors are directed to make known to the public, through available media, the confidentiality of the testing for and treatment of sexually transmitted disease.

**SECTION 8.** Section 41-23-33, Mississippi Code of 1972, is amended as follows:

41-23-33. The State Board of Health, with the consent of the Governor, when it deems it proper or necessary to do so, may call upon the government of the United States for such financial and medical aid as the necessities created by an epidemic or any other health emergency may require.

**SECTION 9.** Section 41-23-37, Mississippi Code of 1972, is amended as follows:

41-23-37. Whenever indicated, the State Health Officer shall specify such immunization practices as may be considered best for the control of vaccine preventable diseases. A listing shall be promulgated annually or more often, if necessary.

Except as provided hereinafter, it shall be unlawful for any child to attend any school, kindergarten or similar type facility intended for the instruction of children (hereinafter called "schools"), either public or private, with the exception of any legitimate home instruction program as defined in Section 37-13-91, Mississippi Code of 1972, for ten (10) or less children who are related within the third degree computed according to the civil law to the operator, unless they shall first have been vaccinated against those diseases specified by the State Health Officer.

A certificate of exemption from vaccination for medical reasons may be offered on behalf of a child by a duly licensed physician and may be accepted by the local health officer when, in his opinion, such exemption will not cause undue risk to the community.



Certificates of vaccination shall be issued by local health officers or physicians on forms specified by the Mississippi State Board of Health. These forms shall be the only acceptable means for showing compliance with these immunization requirements, and the responsible school officials shall file the form with the child's record.

If a child shall offer to enroll at a school without having completed the required vaccinations, the local health officer may grant a period of time up to ninety (90) days for such completion when, in the opinion of the health officer, such delay will not cause undue risk to the child, the school or the community. No child shall be enrolled without having had at least one (1) dose of each specified vaccine.

Within thirty (30) days after the opening of the fall term of school (on or before October 1 of each year) the person in charge of each school shall report to the county or local health officer, on forms provided by the Mississippi State Board of Health, the number of children enrolled by age or grade or both, the number fully vaccinated, the number in process of completing vaccination requirements, and the number exempt from vaccination by reason for such exemption.

Within one hundred twenty (120) days after the opening of the fall term (on or before December 31), the person in charge of each school shall certify to the local or county health officer that all children enrolled are in compliance with immunization requirements.

For the purpose of assisting in supervising the immunization status of the children the local health officer, or his designee, may inspect the children's records or be furnished certificates of immunization compliance by the school.

It shall be the responsibility of the person in charge of each school to enforce the requirements for immunization. Any child not in compliance at the end of ninety (90) days from the opening of the fall term must be suspended until in compliance, unless the health officer shall attribute the delay to lack of supply of vaccine or some other such factor clearly making compliance impossible.

Failure to enforce provisions of this act shall constitute a misdemeanor and upon conviction be punishable by fine or imprisonment or both.

**SECTION 10.** Section 41-24-1, Mississippi Code of 1972, is amended as follows:

41-24-1. The State Board of Health is hereby authorized and empowered to promulgate such rules and regulations necessary to establish a program of testing to determine the presence of the disease or condition known as sickle cell anemia or sickle cell trait.

**SECTION 11.** Section 41-24-3, Mississippi Code of 1972, is amended as follows:

41-24-3. In order to accomplish a program of testing for the disease or condition known as sickle cell anemia and/or sickle cell trait which will be most effective and efficient throughout the state, the State Board of Health may, by rule or regulation, require testing of only those persons who, because of race, ethnic group or other reasons are determined to be particularly susceptible to the condition.

**SECTION 12.** Section 41-25-1, Mississippi Code of 1972, is amended as follows:

41-25-1. The State Board of Health shall have authority to make such sanitary investigations and prepare such rules and regulations governing the disinfection and sanitation of public buildings and vehicles as it may deem necessary for the protection and improvement of health.

rity Act, as amended. Each patient admitted to the nursing home shall be certified as to his mental condition by the Mississippi State Hospital or East Mississippi State Hospital as to his eligibility for medical assistance by appropriate laws of the State of Mississippi.

(c) The purpose of this section is to provide a nursing facility within the environs of the former Tuberculosis Sanatorium of Mississippi, thereby providing a needed service to eligible patients by making use of available buildings and resources for their care and constituting an additional service rendered by the institution.

SECTION 52. This act shall take effect and be in force from and after July 1, 1983.

Approved: April 13, 1983

## CHAPTER 523 SENATE BILL NO. 2407

AN ACT TO AMEND SECTIONS 97-19-55 AND 97-19-57, MISSISSIPPI CODE OF 1972, TO MAKE IT UNLAWFUL TO ISSUE A BAD CHECK ON PAST DUE ACCOUNTS OR IN SATISFACTION OF A PREEXISTING DEBT; TO PROVIDE FOR A STATUTORY SERVICE CHARGE THAT MAY BE COLLECTED BY THE HOLDER OF A BAD CHECK; TO PROVIDE FOR THE FORM OF THE NOTICE THAT A CHECK HAS NOT BEEN PAID BY THE DRAVEE; TO AMEND SECTION 97-19-61, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION 97-19-62, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN INFORMATION OBTAINED AT THE TIME OF ISSUANCE OF THE CHECK SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF THE IDENTITY OF THE DRAWER; TO AMEND SECTION 97-19-47, MISSISSIPPI CODE OF 1972, TO PROVIDE A PENALTY FOR A BAD CHECK GIVEN AS PAYMENT ON A PAST DUE ACCOUNT OR IN SATISFACTION OF A PREEXISTING DEBT AND TO AUTHORIZE THE COURT TO ORDER RESTITUTION IN LIEU OF OR IN ADDITION TO ANY PENALTY WHICH MAY BE IMPOSED FOR VIOLATING THE BAD CHECK LAW; TO AMEND SECTION 97-19-49, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; TO REPEAL SECTION 97-19-59, MISSISSIPPI CODE OF 1972, WHICH DEFINES THE TERM "NOTICE"; AND FOR RELATED PURPOSES.

*Be it enacted by the Legislature of the State of Mississippi:*

SECTION 1. Section 97-19-55, Mississippi Code of 1972, is amended as follows:

97-19-55. It shall be unlawful for any person with fraudulent intent to make, draw, issue, utter or deliver any check, draft or order for the payment of money drawn on any bank, corporation, firm or person for the purpose of obtaining money, services or any article of value, or for the purpose of satisfying a preexisting debt or making a payment or payments on a past due account or accounts, knowing at the time of making, drawing, issuing, uttering or delivering said check, draft or order that the maker or drawer has not sufficient funds in or on deposit with such bank, corporation, firm or person for the payment of such check, draft or order in full, and all other checks, drafts or orders upon such funds then outstanding.

SECTION 2. Section 97-19-57, Mississippi Code of 1972, is amended as follows:

97-19-57. (1) As against the maker or drawer thereof, the making, drawing, issuing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence and create a presumption of intent to defraud and of knowledge of insufficient funds in, or on deposit with, such bank, corporation, firm or person, provided such maker or drawer shall not have paid the holder thereof the amount due thereon, together with a service charge not to exceed Ten Dollars (\$10.00), within fifteen (15) days after receiving notice that such check, draft or order has not been paid by the drawee.

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\*\*\* CURRENT THROUGH THE 97TH GENERAL ASSEMBLY, 1ST SPECIAL  
SESSION, 2013 \*\*\*

\*\*\* MOST CURRENT ANNOTATION DECEMBER 2, 2013. \*\*\*

TITLE 11. EDUCATION AND LIBRARIES (Chs. 160-186)  
CHAPTER 167. PUPILS AND SPECIAL SERVICES  
PUPILS

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

§ 167.181 R.S.Mo. (2013)

§ 167.181. Immunization of pupils against certain diseases compulsory --  
exceptions -- records -- to be at public expense, when -- fluoride treatments  
administered, when -- rulemaking authority, procedure

1. The department of health and senior services, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis, diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish schools. Such rules and regulations may modify the immunizations that are required of children in this subsection. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The department of health and senior services shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school unless he has been immunized as required under the rules and regulations of the department of health and senior services, and can provide satisfactory evidence of such immunization; except that if he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to his school administrator against the immunization of the child, because of religious beliefs or medical contraindications. In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated pursuant to the provisions of this section shall be reported by the school superintendent to the department of health and senior services.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state Medicaid program, private insurance or in a manner to be determined by the department of health and senior services subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630. When a child receives his or her immunization, the treating physician may also administer the appropriate fluoride treatment to the child's teeth.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health and senior services from general revenue or from federal funds if available.

7. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

**HISTORY:** L. 1963 p. 200 § 8-18, A.L. 1972 H.B. 1255, A.L. 1973 H.B. 342, A.L.

1992 S.B. 611, A.L. 1993 H.B. 522 merged with S.B. 52, A.L. 1995 S.B. 3, A.L. 1996 H.B. 904, et al., A.L. 2001 H.B. 567 merged with S.B. 393

**NOTES:**

PRIOR REVISIONS: L. 1961 p. 349 §§ 1 to 6

EFFECTIVE 7-10-01

CROSS REFERENCES: Consent to immunization may be delegated to other persons, when, RSMo 431.058

Day care centers, immunization requirements, exceptions, exemption procedure, reports, RSMo 210.003

Mandatory insurance coverage of immunizations, exceptions, RSMo 376.1215

LexisNexis (R) Notes:

**CASE NOTES**

1. Public school districts in Missouri were prohibited by Mo. Const. art. IX, § 1(a) from charging registration fees and course fees as prerequisites to enrollment and to participation by school age children in classes offered for academic credit by such districts district under Mo. Rev. Stat. §§ 162.940, 167.121, 167.131, 167.151, 167.181, 167.211, and 167.231. Concerned Parents v. Caruthersville School Dist., 548 S.W.2d 554, 1977 Mo. LEXIS 194 (Mo. 1977).

1992 A.L. 1992 S.B. 611, (Effective July 6, 1992)

## EDUCATION AND LIBRARIES

603

government or any agency thereof, or from any person, firm or corporation. Appropriations made pursuant to the provisions of this section shall not be considered as a part of the regular appropriations for Crowder College nor shall such appropriations result in any reduction of appropriations for Crowder College. Appropriations from the state shall be used for a program of instruction in alternative energy, public educational services including instruction in Missouri elementary and secondary schools, service to Missouri industries through cooperative projects and in-service training, and applied research in alternative energy applications.

**Section B. Emergency clause.**—Because there is a serious need to provide for the funding of certain educational institutions in this state, section A of this act is deemed necessary for the preservation of the public health, welfare, peace, and safety, and an emergency exists within the meaning of the constitution, and section A of this act shall become effective upon its passage and approval or July 1, 1992, whichever later occurs.

Approved June 17, 1992.

[H. C. S. S. B. 611]

**EXPLANATION**—Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**EDUCATION AND LIBRARIES: Immunization of pupils.**

**AN ACT** to repeal section 167.181, RSMo Supp. 1991, relating to immunization of pupils, and to enact in lieu thereof two new sections relating to the same subject, with an emergency clause.

**SECTION**

A. Enacting clause.  
167.181. Immunization of pupils against certain diseases compulsory—exceptions—records—to be at public expense, when—rulemaking au-

**SECTION**

thority, procedure.  
167.183. Immunization records, disclosure, to whom—disclosure for unauthorized purpose, liability.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**Section A. Enacting clause.**—Section 167.181, RSMo Supp. 1991, is repealed and two new sections enacted in lieu thereof, to be known as sections 167.181 and 167.183, to read as follows:

**167.181. Immunization of pupils against certain diseases compulsory—exceptions—records—to be at public expenses, when—rulemaking authority, procedure.**—1. The department of health, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps and diphtheria, to be required of children attending public, private, parochial or parish schools. Tetanus and pertussis may be included in the vaccine administered. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The department of health shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school for longer than [one month] fifteen school days unless he has been immunized as required under the rules and regulations of the department of health, and can provide satisfactory evidence of such immunization; except that if within the [month] fifteen-school-day period he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in

writing to his school administrator against the immunization of the child, because of religious beliefs or medical contraindications. In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated hereunder shall be reported by the school superintendent to the department of health.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense in a manner to be determined by the department of health after consultation with the school superintendent.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health from general revenue or from federal funds if available.

7. (1) No rule or portion of a rule promulgated under the authority of this section shall become effective until it has been approved by the joint committee on administrative rules. Upon filing any proposed rule with the secretary of state, the department shall concurrently submit such proposed rule to the committee which may hold hearings upon any proposed rule or portion thereof at any time. In the event the committee disapproves any proposed rule or portion thereof, the committee shall notify the department and the secretary of state. If any proposed rule or portion thereof is disapproved by the committee, the secretary of state shall publish in the Missouri Register, as soon as practicable, an order that such rule or portion thereof has been disapproved.

(2) The department shall not file any final order of rulemaking with the secretary of state until twenty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the twenty-day period. If the committee neither approves nor disapproves any order of rulemaking within the twenty-day period, the department may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved, subject to subsequent suspension by the committee. In the event the committee disapproves any order of rulemaking or portion thereof, the committee shall notify the department and the secretary of state.

(3) Any rule or portion of a rule promulgated under the authority of this section may be suspended by the committee at any time after a hearing conducted thereon. If any rule is suspended by the committee, the secretary of state shall publish in the Missouri Register, as soon as practicable, an order withdrawing the rule.

(4) Any person seeking judicial review of any such rule shall be deemed to have exhausted all administrative review procedures. Notwithstanding the provisions of section 1.140, RSMo, the provisions of this section are nonseverable and the grant of rulemaking authority is essentially dependent on the review power vested with the committee. If the review power is held unconstitutional or invalid, the grant of rulemaking authority and any rule promulgated under such rulemaking authority shall also be invalid or void.

**167.183. Immunization records, disclosure, to whom—disclosure for unauthorized purpose, liability.**—1. Information and records pertaining to the immunization status of persons against childhood diseases as required by section 167.181 and section 210.003, RSMo, may be disclosed and exchanged without a parent or guardian's written release authorizing such disclosure, to the following, who need to know such information to assure compliance with state statutes or to achieve age appropriate immunization status for children:

- (1) Employees of public agencies, departments and political subdivisions;
- (2) Health records staff of school districts and child care facilities;
- (3) Persons other than public employees who are entrusted with the regular care

## EDUCATION AND LIBRARIES

605

of those under the care and custody of a state agency including, but not limited to, operators of day care facilities, group homes, residential care facilities and adoptive or foster parents;

(4) Health care professionals.

2. If any person, authorized in subsection 1 of this section, discloses such information for any other purpose, it is an unauthorized release of confidential information and the person shall be liable for civil damages.

**Section B. Emergency clause.**—Because there is a serious need to safeguard the health of children this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

Approved July 6, 1992.

[H. B. 928]

**EXPLANATION**—Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**EDUCATION AND LIBRARIES: Certain retirement systems.**

**AN ACT** to repeal sections 169.055, 169.070 and 169.560, RSMo Supp. 1991, relating to certain retirement systems, and to enact in lieu thereof three new sections relating to the same subject.

**SECTION**

**SECTION**

A. Enacting clause.  
169.055. Purchase of equivalent service, military service, unpaid maternity leave, teachers serving outside state or in certain universities—employees and retired employees of Central Missouri State University may become members of MOSERS—refund of contribution.

when.  
169.070. Retirement allowances, how computed—options—effect of federal O.A.S.I. coverage—cost of living adjustment authorized.  
169.560. Retirees may be employed for limited time—exception—effect on benefits.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**Section A. Enacting clause.**—Sections 169.055, 169.070 and 169.560, RSMo Supp. 1991, are repealed and three new sections enacted in lieu thereof, to be known as sections 169.055, 169.070 and 169.560, to read as follows:

**169.055. Purchase of equivalent service, military service, unpaid maternity leave, teachers serving outside state or in certain universities—employees and retired employees of Central Missouri State University may become members of MOSERS—refund of contribution, when.**—1. A member who has rendered service as a teacher outside of this state including service in a public university or who has rendered service in the University of Missouri or Lincoln University after July 1, 1946, provided he is not receiving and is not eligible to receive retirement credit or benefits for such service in any other teacher retirement system, may elect, within ten years after employment in a district included in the system following such service outside of this state, or service in the University of Missouri or Lincoln University, or within ten years from June 19, 1987, and prior to retirement, whichever is later, to purchase equivalent membership service credit but not in excess of ten years, including any creditable service which he had applied to purchase on or before August 13, 1988, but for which payment was not made within the prescribed time period, with a rate of compensation equal to the initial annual salary rate at which he is employed by the district. The purchase shall be effected by the member's paying to the retirement system with interest the amount he would have contributed thereto had he been a member



1993 A.L. 1993 H.B. 522 merged with S.B. 52, (Approved July 1, 1993)  
(Effective August 28<sup>th</sup>, 1993)

680

LAWS OF MISSOURI, 1993

[H. B. 500]

**PUBLIC HEALTH AND WELFARE: Confidentiality of certain conversations of deaf or speech impaired persons.**

**AN ACT** relating to confidentiality of certain conversations of deaf or speech impaired persons.

**SECTION**

1. Definitions.
2. Person relaying conversation not to disclose contents, exception—or—

**SECTION**

- der to disclose—privilege.
3. No disclosure of conversation without permission.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**Section 1. Definitions.**—As used in sections 1 to 3 of this act, the following terms mean:

(1) "Auxiliary aids and services", the device or service that the deaf person feels would best serve him which includes, but is not limited to, interpreters, notetakers, transcription services, written materials, assistive listening devices, assistive listening systems, closed caption decoders, open and closed captioning, videotext display or other effective method of making aurally delivered materials available to individuals with hearing loss;

(2) "Deaf person", any person who, because of a hearing loss, is not able to discriminate speech when spoken in a normal conversational tone regardless of the use of amplification devices;

(3) "Person with a speech impairment", any person who, because of a speech disability, is not able to speak clearly or understandably in a normal conversational tone regardless of the use of assistive devices;

(4) "Relay agent", a person employed to relay conversations for a person who is deaf or speech impaired over a dual-party telephone system.

**Section 2. Person relaying conversation not to disclose contents, exception—order to disclose—privilege.**—1. A person who interprets, transliterates or relays a conversation between a person who can hear and a deaf person is deemed a conduit for the conversation and may not disclose or be compelled to disclose by subpoena, the contents of the conversation which he facilitated without the prior consent of the person who received his professional services, except as provided in subsection 2 of this section.

2. A court may order disclosure of the contents of a conversation to provide evidence in proceedings related to criminal charges. However, all communications, which are privileged by law, shall be protected as privileged communications in the same manner as communications when a auxiliary aids and services provider or relay agent is used.

**Section 3. No disclosure of conversation without permission.**—An auxiliary aids and services provider or relay agent who is employed to interpret, transliterates or relay a conversation between a person who can hear and a person who is deaf or speech impaired shall not disclose the contents of the conversation, unless the person for whom he interpreted, transcribed or relayed has given written permission for such disclosure.

Approved June 8, 1993.

[S. C. S. H. C. S. H. B. 522]

**EXPLANATION**—Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**PUBLIC HEALTH AND WELFARE: Immunization of children.**

**AN ACT** to repeal sections 210.030, 210.040, 210.050 and 210.060, RSMo 1965, and section 167.181, RSMo Supp. 1992, relating to immunization of children, and to enact in lieu thereof eight new sections relating to the same subject, with penalty provisions.

## PUBLIC HEALTH AND WELFARE

681

## SECTION

- A. Enacting clause.  
 167.181. Immunization of pupils against certain diseases compulsory—exceptions—records—to be at public expense, when—rulemaking authority, procedure, review.  
 210.030. Blood tests of pregnant women.  
 210.040. Blood tests results—confidential.  
 210.050. Reporting required.  
 210.060. Noncompliance a misdemeanor—penalty.

## SECTION

1. Advisory committee on childhood immunizations—members—public meetings, costs—appointment—duties.
2. Bureau of immunization to develop educational materials—contents, distribution.
3. Board to promulgate certain rules relating to vaccines and immunizations.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**Section A. Enacting clause.**—Sections 210.030, 210.040, 210.050 and 210.060, RSMo 1986, and section 167.181, RSMo Supp. 1992, are repealed and eight new sections enacted in lieu thereof, to be known as sections 167.181, 210.030, 210.040, 210.050, 210.060, 1, 2 and 3, to read as follows:

**167.181. Immunization of pupils against certain diseases compulsory—exceptions—records—to be at public expense, when—rulemaking authority, procedure, review.**—  
 1. The department of health, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubella, mumps, tetanus, pertussis and diphtheria, to be required of children attending public, private, parochial or parish schools. [Tetanus and pertussis may be included in the vaccine administered.] The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The department of health shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school [for longer than fifteen school days] unless he has been immunized as required under the rules and regulations of the department of health, and can provide satisfactory evidence of such immunization; except that if [within the fifteen-school-day period] he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to his school administrator against the immunization of the child, because of religious beliefs or medical contraindications. In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated hereunder shall be reported by the school superintendent to the department of health.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state medical program, private insurance or in a manner to be determined by the department of health subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 1 of this act.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health from general revenue or from federal funds if available.

7. (1) No rule or portion of a rule promulgated under the authority of this section shall become effective until it has been approved by the joint committee on administrative rules. Upon filing any proposed rule with the secretary of state, the department shall concurrently submit such proposed rule to the committee which may hold hearings upon any proposed rule or portion thereof at any time. In the event the committee disapproves any proposed rule or portion thereof, the committee shall notify the department and the secretary of state. If any proposed rule or portion thereof is disapproved by the committee, the secretary of state shall publish in the Missouri Register, as soon as practicable, an order that such rule or portion thereof has been disapproved.

(2) The department shall not file any final order of rulemaking with the secretary of state until twenty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the twenty-day period. If the committee neither approves nor disapproves any order of rulemaking within the twenty-day period, the department may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved, subject to subsequent suspension by the committee. In the event the committee disapproves any order of rulemaking or portion thereof, the committee shall notify the department and the secretary of state.

(3) Any rule or portion of a rule promulgated under the authority of this section may be suspended by the committee at any time after a hearing conducted thereon. If any rule is suspended by the committee, the secretary of state shall publish in the Missouri Register, as soon as practicable, an order withdrawing the rule.

(4) Any person seeking judicial review of any such rule shall be deemed to have exhausted all administrative review procedures. Notwithstanding the provisions of section 1.140, RSMo, the provisions of this section are nonseverable and the grant of rulemaking authority is essentially dependent on the review power vested with the committee. If the review power is held unconstitutional or invalid, the grant of rulemaking authority and any rule promulgated under such rulemaking authority shall also be invalid or void.

**210.030. Blood tests of pregnant women.**—Every licensed physician, midwife, registered nurse and all persons who may undertake, in a professional way, the obstetrical and gynecological care of pregnant women in the state of Missouri shall, if the woman consents, take or cause to be taken a sample of venous blood of such woman at the time of the first examination, or not later than twenty days after the first examination, and subject such sample to an approved and standard serological test for syphilis, an approved serological test for hepatitis B and such other treatable diseases and metabolic disorders as are prescribed by the department of health and such person in attendance at the live birth of the child shall also administer the appropriate doses of hepatitis B vaccine and gammaglobulin specific for hepatitis B, or HBIG, within twelve hours of birth to infants born to mothers who are hepatitis B positive. The department of health shall, in consultation with the Missouri genetic disease advisory committee, make such rules pertaining to said tests as shall be dictated by accepted medical practice, and tests shall be of the types approved by the department of health. An approved and standard test for syphilis, hepatitis B, and other treatable diseases and metabolic disorders shall mean a test made in a laboratory approved by the department of health. Such tests shall be made free of charge by the department of health on request.

**210.040. Blood tests results—confidential.**—As soon as the result of the test is determined, and if the test is positive or doubtfully positive for syphilis or hepatitis B, the physician, or such other obstetrical or gynecological attendant shall fill out a form to be furnished by the department of health of Missouri, with such finding noted thereon, and send it to the county or municipal department of health of the county or city in which the pregnant woman or the mother is then residing. In no event shall this finding be made public by any person.

**210.050. Reporting required.**—In reporting every birth, and stillbirth, physicians and other persons attending pregnancy cases and required to report births and stillbirths, shall state on the report of birth, or stillbirth, whether a blood test for syphilis has been made during such pregnancy upon a specimen of venous blood taken from

educational materials which strongly recommend that infants and young children receive complete immunization vaccines in accordance with current standard medical practice, including but not limited to the following vaccine or series of vaccines:

- (1) Haemophilus influenza type b conjugate vaccine before the age of two years;
- (2) Hepatitis B vaccine in accordance with section 3 of this act;
- (3) A tuberculin skin test.

2. Such educational materials shall be distributed to parents of infants and young children by the department of health through hospitals and city, county and district health units and by the department of elementary and secondary education through the parent education program established pursuant to sections 178.691 to 178.699, RSMo. Such educational materials shall conform to the National Childhood Vaccine Injury Act, PL 99-660, and shall include information regarding possible risks and benefits and requirements regarding informed consent associated with childhood vaccines which shall be provided to parents or legal guardians of the child.

**Section 3. Board to promulgate certain rules relating to vaccines and immunizations.**—The state board of registration for the healing arts, in consultation with the department of health, shall promulgate rules and regulations requiring physicians to:

- (1) Administer hepatitis B vaccine and immunoglobulin to neonates in keeping with standards of current medical practice in any instance in which the blood test for hepatitis B performed in accordance with section 210.030, RSMo, indicates the neonate has been exposed or is at risk of exposure to hepatitis B; and
- (2) Recommend to the parents or legal guardians of any neonate who is not found to have been exposed or at risk of exposure to hepatitis B that the neonate receive hepatitis B vaccine in accordance with standards of current medical practice, upon receipt of informed written consent of the parents or legal guardians.

Approved July 1, 1993.

[S. S. C. S. H. S. H. C. S. H. B. 376]

**EXPLANATION**—Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

#### **PUBLIC HEALTH AND WELFARE: Child care facilities.**

**AN ACT** to repeal sections 210.231, 210.241, 210.245, and 210.486, RSMo 1986, and sections 210.201, 210.211 and 210.221, RSMo Supp. 1992, relating to certain child care facilities, and to enact in lieu thereof sixteen new sections relating to the same subject, with penalty provisions.

SECTION	SECTION
A. Enacting clause.	ney general may seek injunction, when.
210.201. Definitions.	210.251. State and federal funds to be made available to centers to upgrade standards.
210.203. Complaints against child care facilities, open records to be kept by department.	210.486. License required, applicants to be investigated—provisional licenses, when—periods of validity.
210.211. License required—exceptions.	1. Fire, safety, health and sanitation inspections, procedure—variances to rules granted when—rule authorized.
210.215. Access to child and care providers during normal hours—exception court orders restricting access.	2. Religious organization operating facilities exempt under licensing laws required to file parented notice of responsibility and fire, safety inspections annually—religious organizations operating facility in violation, procedure—noncompliance after notice, prosecutor may
210.221. Licenses to be issued by department of health—duty to fix standards and make investigations—rule variance granted when, procedure.	
210.231. Department of health may delegate powers.	
210.241. Judicial review.	
210.245. Violations, penalties—prosecutor may file suit to oversee or prevent operation of day care center—attor-	

1995 A.L. 1995 S.B. 3, 167.181 (Effective August 28<sup>th</sup>, 1995)

STATUTORY ACTIONS AND TORTS

1071

(12) Impose reasonable time limits on use of the tuition benefits provided by the trust, if the limits are made a part of the contract;

(13) Provide for receiving contributions in lump sums or periodic sums;

(14) Promulgate reasonable rules and regulations and establish policies, procedures, and eligibility criteria to implement sections 166.200 to 166.242, sections 173.053 and 173.262, RSMo.

2. [No rule or portion of a rule promulgated under the authority of sections 166.200 to 166.242 and sections 173.053 and 173.262, RSMo, shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

3. Upon filing any proposed rule with the secretary of state, the filing agency shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

6. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation. No rule or portion of a rule promulgated under the authority of sections 166.200 to 166.242 and sections 173.053 and 173.262, RSMo, shall become effective unless it has been promulgated pursuant to the provisions of section 536.034, RSMo.

**167.181. Immunization of pupils against certain diseases compulsory—exceptions—records—to be at public expense, when—rulemaking authority, procedure.—1.** The department of health, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis and diphtheria, to be required of children attending public, private, parochial or parish schools. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The department of health shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school unless he has been immunized as required under the rules and regulations of the department of health, and can provide satisfactory evidence of such immunization; except that if he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner.



It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to his school administrator against the immunization of the child, because of religious beliefs or medical contraindications. In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated hereunder shall be reported by the school superintendent to the department of health.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state medicaid program, private insurance or in a manner to be determined by the department of health subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630, RSMo.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health from general revenue or from federal funds if available.

7. [No rule or portion of a rule promulgated under the authority of this section shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided in this section, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.]

8. Upon filing any proposed rule with the secretary of state, the filing agency shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

9. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

10. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
- (2) An emergency relating to public health, safety or welfare;
- (3) The proposed rule is in conflict with state law;
- (4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

11. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

12. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

13. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation. [No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

1996 A.L. 1996 H.B. 904, et al., (Effective August 28, 1996)

# EDUCATION AND LIBRARIES

379

## SECTION

### A. Enacting clause.

167.161. Suspension or expulsion of pupil—notice—hearing—felony violation, grounds for suspension.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**Section A. Enacting clause.**—Section 167.161, RSMo Supp. 1995, is repealed and one new section enacted in lieu thereof, to be known as section 167.161, to read as follows:

**167.161. Suspension or expulsion of pupil—notice—hearing—felony violation, grounds for suspension.**—1. The school board of any district, after notice to parents or others having custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils. At the hearing the board shall consider the evidence and statements that the parties present and may provide by general rule not inconsistent with this section for the procedure and conduct [thereof.] of such hearing. After meeting with the superintendent or his designee to discuss the expulsion, the parent, custodian or the student, if at least eighteen years of age, may, in writing, waive any right to a hearing before the board of education.

2. The school board of any district, after notice to parents or others having custodial care and a hearing upon the matter, may suspend a pupil upon a finding that the pupil has been charged, convicted or pled guilty in a court of general jurisdiction for the commission of a felony criminal violation of state or federal law. At a hearing required by this subsection, the board shall consider statements that the parties present. The board may provide for the procedure and conduct of such hearings.

Approved June 28, 1996.

[S. C. S. H. C. S. H. B. 904, 788 and 966]

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

## EDUCATION AND LIBRARIES: Improving access to immunizations for children.

**AN ACT** to repeal section 376.995, RSMo 1994, and section 167.181, RSMo Supp. 1995, and to enact in lieu thereof four new sections for the purpose of improving access to immunizations for children.

## SECTION

### A. Enacting clause.

167.181. Immunization of pupils against certain diseases compulsory—exceptions—records—to be at public expense, when—rulemaking authority, procedure.

376.995. Limited mandate health insurance policies defined—certain sections not to apply to limited mandate health insurance policies, exceptions—requirements to sell or issue—certain law to apply.

1. Immunizations, mandated coverage, exceptions—rulemaking.

2. Consent to immunization of child, who may give, when—definitions—reliance by health care provider—limitations on liability, when.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**Section A. Enacting clause.**—Section 376.995, RSMo 1994, and section 167.181, RSMo Supp. 1995, are repealed and four new sections enacted in lieu thereof, to be known as sections 167.181, 376.995, 1 and 2, to read as follows:

**167.181. Immunization of pupils against certain diseases compulsory—exceptions—records—to be at public expense, when—rulemaking authority, procedure.**—1. The depart-

ment of health, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis [and], diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish schools. Such rules and regulations may modify the immunizations that are required of children in this subsection. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The department of health shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school unless he has been immunized as required under the rules and regulations of the department of health, and can provide satisfactory evidence of such immunization; except that if he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to his school administrator against the immunization of the child, because of religious beliefs or medical contraindications. In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated [hereunder] pursuant to the provisions of this section shall be reported by the school superintendent to the department of health.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state medicaid program, private insurance or in a manner to be determined by the department of health subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630, RSMo.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health from general revenue or from federal funds if available.

7. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

**376.995. Limited mandate health insurance policies defined—certain sections not to apply to limited mandate health insurance policies, exceptions—requirements to sell or issue—certain law to apply.—1.** This section shall be known as the "Limited Mandate Health Insurance Act".

2. Limited mandate health insurance policies and contracts shall mean those policies and contracts of health insurance as defined in section 376.960 and which cover individuals and their families (but not including any medicare supplement policy or contract) and groups sponsored by an employer who employs fifty or fewer persons.

3. No law requiring the coverage of a particular health care service or benefit, or requiring the reimbursement, utilization or inclusion of a specific category of licensed health care practitioner, shall apply to limited mandate health insurance policies and contracts, except the following provisions:

(1) Subsection 1 of section 354.095, RSMo, to the extent that it regulates maternity benefits;



## EDUCATION AND LIBRARIES

383

10. The responsibility of a health care provider to provide information to a person consenting to the immunization of a child as provided by this section is the same as the health care provider's responsibility to a parent.

11. Except for acts of willful misconduct or gross negligence, a person who consents to the immunization of a child as provided by this section shall not be liable for damages arising from any such immunization administered by a person authorized by law to administer immunizations in this state.

Approved July 1, 1996.

[S. C. S. S. B. 857]

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**EDUCATION AND LIBRARIES: Teacher retirement.**

AN ACT to repeal sections 169.010 and 169.600, RSMo 1994, and sections 169.030 and 169.620, RSMo Supp. 1995, relating to teacher retirement, and to enact in lieu thereof four new sections relating to the same subject, with an emergency clause.

**SECTION**

- A. Enacting clause.
- 169.010. Definitions.
- 169.030. Contributions by members and employees, exceptions—rate—withholding required—penalty for failure to withhold.
- 169.600. Definitions.
- 169.620. Contributions by members and employers—rate—penalty for failure to remit—benefits to be reduced, when—purchase of service credit, certain members, how.
- B. Emergency clause.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**Section A. Enacting clause.**—Sections 169.010 and 169.600, RSMo 1994, and sections 169.030 and 169.620, RSMo Supp. 1995, are repealed and four new sections enacted in lieu thereof, to be known as sections 169.010, 169.030, 169.600 and 169.620, to read as follows:

**169.010. Definitions.**—The following words and phrases, as used in sections 169.010 to 169.130, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "Accumulated contributions" shall mean the sum of the annual contributions a member has made to the retirement system through deductions from his salary, plus interest compounded annually on each year's contributions from the end of the school year during which such contributions were made;
- (2) "Board" shall mean the board of trustees provided for in sections 169.010 to 169.130;
- (3) "Creditable service" shall mean prior service or membership service, or the sum of the two, if the member has both to his credit;
- (4) "District" shall mean public school, as herein defined;
- (5) "Employ" shall have a meaning agreeable with that herein given to employer and employee;
- (6) "Employee" shall be synonymous with the term "teacher" as the same is herein defined;
- (7) "Employer" shall mean the district that makes payment directly to the teacher or employee for his services;
- (8) "Final average salary" shall mean the total compensation payable to a member for any five consecutive years of creditable service, as elected by the member, divided by sixty; with the

2001 **A.L. 2001 H.B. 567 merged with S.B. 393** (Effective July 10, 2001)

## House Bill 567

545

### HB 567 [CCS SS SCS HCS HB 567]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Makes various changes to different boards supervised by the Division of Professional Registration.**

AN ACT to repeal sections 109.120, 109.241, 167.181, 191.600, 191.603, 191.605, 191.607, 191.609, 191.611, 191.614, 191.615, 192.070, 209.251, 214.275, 214.276, 214.367, 214.392, 256.459, 324.083, 324.086, 324.177, 324.212, 324.217, 324.243, 324.522, 326.011, 326.012, 326.021, 326.022, 326.040, 326.050, 326.055, 326.060, 326.100, 326.110, 326.120, 326.121, 326.125, 326.130, 326.131, 326.133, 326.134, 326.151, 326.160, 326.170, 326.180, 326.190, 326.200, 326.210, 326.230, 327.011, 327.031, 327.041, 327.081, 327.131, 327.314, 327.381, 327.600, 327.603, 327.605, 327.607, 327.609, 327.612, 327.615, 327.617, 327.621, 327.623, 327.625, 327.627, 327.629, 327.630, 327.631, 329.010, 329.040, 329.050, 329.085, 329.190, 329.210, 331.050, 331.090, 332.072, 332.311, 334.021, 334.047, 334.625, 334.749, 334.870, 334.880, 334.890, 337.612, 337.615, 337.618, 337.622, 338.030, 338.043, 338.055, 338.210, 338.220, 338.285, 338.353, 339.090, 345.080 and 620.010, RSMo 2000, relating to the division of professional registration, and to enact in lieu thereof one hundred thirty-seven new sections relating to the same subject, with penalty provisions and an emergency clause for certain sections.

#### SECTION

- A. Enacting clause.
- 109.120. Records reproduced by photographic, video or electronic process, standards — cost.
- 109.241. Local agency head, duties of.
- 167.181. Immunization of pupils against certain diseases compulsory — exceptions — records — to be at public expense, when — fluoride treatments administered, when — rulemaking authority, procedure.
- 191.600. Loan repayment program established — health professional student loan repayment program fund established — use.
- 191.603. Definitions.
- 191.605. Department to designate as areas of need — factors to be considered.
- 191.607. Qualifications for eligibility established by department.
- 191.609. Contract for repayment of loans, contents.
- 191.611. Loan repayment program to cover certain loans — amount paid per year of obligated service — schedule of payments — communities sharing costs to be given first consideration.
- 191.614. Termination of medical studies or failure to become licensed doctor, liability — breach of contract for service obligation, penalties — recovery of amount paid by contributing community.
- 191.615. Application for federal funds — insufficient funds, effect.
- 191.938. Automated external defibrillator advisory committee established, duties, reports, membership, bylaws — termination date.
- 192.070. Care of babies and hygiene of children, educational literature to be issued by department.
- 209.251. Definitions.
- 214.209. Abandonment of burial site, rights revert to cemetery.
- 214.275. License, cemeteries — division's powers and duties — limitations.
- 214.276. Refusal to issue license — notice — hearing.
- 214.367. Prospective purchaser of endowed care cemetery, right to recent audit — right to continue operation, notification by division.
- 214.392. Division of professional registration, duties and powers in regulation of cemeteries — rulemaking authority.
- 256.459. Board of geologist registration created — members, qualifications, appointment — public members — terms — bond not required — attorney general to represent board — expenses, reimbursement, compensation.
- 324.086. Refusal to issue license, when — notification of applicant — complaint procedure.
- 324.177. Advisory commission for clinical perfusionists established, duties, members, expenses, compensation, removal.
- 324.212. Applications for licensure, fees — renewal notices — dietitian fund established.

**109.241. LOCAL AGENCY HEAD, DUTIES OF.** — The head of each local agency shall:

(1) Submit within six months after a call to do so from the secretary of state in accordance with standards established by the local records board and promulgated by the director of records management and archives, schedules proposing the length of time each local records series warrants retention for administrative, legal, historical or fiscal purposes after it has been received or created by the local agency;

(2) Submit lists of local records that are not needed in the transaction of current business and that do not have sufficient administrative, legal, historical or fiscal value to warrant their further retention;

(3) Cooperate with the director in the conduct of surveys made by the director pursuant to the provisions of sections 109.200 to 109.310;

(4) When files in the custody of a local governmental agency are microfilmed or otherwise reproduced through photographic, video, electronic, or other reproduction processes, including a computer-generated electronic or digital retrieval system, the public official having custody of the reproduced records shall, before disposing of the originals, certify to the director that the official has made provisions for preserving the microfilms or electronically created records for viewing and recalling images to paper or original form, as appropriate, and that the official has done so in a manner guaranteeing the proper retention and integrity of the records in accordance with standards established by the local records board. Certification shall include a statement, written plan, or reputable vendor's certificate, as appropriate, that any microfilm or document reproduced through electronic process meets the standards for archival permanence established by the United States of America Standards Institute or similar agency, or local records board. If records are microfilmed, original camera masters shall not be used for frequent reference or reading purposes, but copies shall be made for such purposes.

**167.181. IMMUNIZATION OF PUPILS AGAINST CERTAIN DISEASES COMPULSORY — EXCEPTIONS — RECORDS — TO BE AT PUBLIC EXPENSE, WHEN — FLUORIDE TREATMENTS ADMINISTERED, WHEN — RULEMAKING AUTHORITY, PROCEDURE.** — 1. The department of health, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis, diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish schools. Such rules and regulations may modify the immunizations that are required of children in this subsection. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The department of health shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school unless he has been immunized as required under the rules and regulations of the department of health, and can provide satisfactory evidence of such immunization; except that if he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to his school administrator against the immunization of the child, because of religious beliefs or medical contraindications. In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules

and regulations promulgated pursuant to the provisions of this section shall be reported by the school superintendent to the department of health.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state Medicaid program, private insurance or in a manner to be determined by the department of health subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630, RSMo. When a child receives his or her immunization, the treating physician may also administer the appropriate fluoride treatment to the child's teeth.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health from general revenue or from federal funds if available.

7. [No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

**191.600. LOAN REPAYMENT PROGRAM ESTABLISHED — HEALTH PROFESSIONAL STUDENT LOAN REPAYMENT PROGRAM FUND ESTABLISHED — USE.** — 1. Sections 191.600 to 191.615 establish a loan repayment program for graduates of approved medical schools, schools of osteopathic medicine, schools of dentistry and accredited chiropractic colleges who practice in areas of defined need and shall be known as the "[Medical School] Health Professional Student Loan Repayment Program". Sections 191.600 to 191.615 shall apply to graduates of accredited chiropractic colleges when federal guidelines for chiropractic shortage areas are developed.

2. The "[Medical School] Health Professional Student Loan and Loan Repayment Program Fund" is hereby created in the state treasury. All funds recovered from an individual pursuant to section 191.614 and all funds generated by loan repayments and penalties received pursuant to section 191.540 shall be credited to the fund. The moneys in the fund shall be used by the department of health to provide loan repayments pursuant to section 191.611 in accordance with sections 191.600 to 191.614 and to provide loans pursuant to sections 191.500 to 191.550.

**191.603. DEFINITIONS.** — As used in sections 191.600 to 191.615, the following terms shall mean:

(1) "Areas of defined need", areas designated by the department pursuant to section 191.605, when services of a physician, chiropractor or dentist are needed to improve the [patient-doctor] patient-health professional ratio in the area, to contribute health care professional [physician] services to an area of economic impact, or to contribute health care professional [physician] services to an area suffering from the effects of a natural disaster;

(2) "Chiropractor", a person license and registered pursuant to chapter 331, RSMo;

(3) "Department", the department of health;

332.311 and the enactment of sections 332.072 and 332.324 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 167.181, 192.070, and 332.311 and the enactment of sections 332.072 and 332.324 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 10, 2001

## HB 575 [SS SCS HB 575]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

### Revises Motor Vehicle Franchise Practices Law.

AN ACT to repeal sections 407.815, 407.816, 407.820, 407.822 and 407.825, RSMo 2000, and section 407.822 as truly agreed to and finally passed by the first regular session of the ninety-first general assembly in senate committee substitute for house bill no. 693, relating to franchise practices, and to enact in lieu thereof eighteen new sections relating to the same subject, with a delayed effective date for certain sections.

#### SECTION

- A. Enacting clause.
- 407.815. Definitions.
- 407.816. Motor driven vehicle, defined for section 407.815 — exemption for recreational vehicle dealers or manufacturers.
- 407.817. Establishment or transfer of a new motor vehicle dealer, procedures for franchisor.
- 407.820. Franchisor subject to jurisdiction of Missouri courts and administrative agencies, when — service of process.
- 407.822. Application for hearing with administrative hearing commission, filing, when — time and place of hearing — notice to parties — final order, when — petition for review of final order — franchisee's right to file application for hearing, when — notice to franchisee, when, exceptions — statement required in franchisor's notice — consolidation of applications — burden of proof.
- 407.822. Application for hearing with administrative hearing commission, filing, when — time and place of hearing — notice to parties — final order, when — petition for review of final order — franchisee's right to file application for hearing, when — notice to franchisee, when, exceptions — statement required in franchisor's notice — consolidation of applications — burden of proof.
- 407.825. Unlawful practices.
- 407.826. New motor vehicle dealership, restrictions on operation of or ownership by a franchisor.
- 407.828. Franchisor's duties to franchisee — schedule of compensation — claims payment.
- 407.1320. Definitions.
- 407.1323. Recreational vehicle manufacturers and dealers, written agreement required, when — sales of RVs, conditions.
- 407.1326. Termination notice, requirements, contents.
- 407.1329. Repurchase upon termination of agreement.
- 407.1332. Change in ownership, notice — rejection of change, notice.
- 407.1335. Succession in dealerships, conditions, restrictions and prohibitions.
- 407.1338. Warranty service, warrantor to provide written obligations — compensation of dealer for warranty service, submission of warranty claims, procedure.
- 407.1340. Violation of dealer agreement.
- 407.1343. Damage to new RVs, written disclosure to dealer required, when — reversion of ownership to manufacturer or distributor, when.
- 407.1346. New RV dealership, restrictions on operation or ownership by a manufacturer.
- B. Effective date.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**Missouri Philosophical/Personal Belief Exemption**

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\*\*\* CURRENT THROUGH ACTS APPROVED BY THE GOVERNOR AS OF  
FEBRUARY 19, 2014, 97TH GENERAL ASSEMBLY, 2ND SESSION, 2014 \*\*\*

\*\*\* MOST CURRENT ANNOTATION FEBRUARY 25, 2014. \*\*\*

TITLE 12. PUBLIC HEALTH AND WELFARE (Chs. 188-215)

CHAPTER 210. CHILD PROTECTION AND REFORMATION

GENERAL PROVISIONS FOR CHILD PROTECTION

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

**§ 210.003 R.S.Mo.** (2014)

**§ 210.003.** Immunizations of children required, when, exceptions -- duties of administrator, report

1. No child shall be permitted to enroll in or attend any public, private or parochial day care center, preschool or nursery school caring for ten or more children unless such child has been adequately immunized against vaccine-preventable childhood illnesses specified by the department of health and senior services in accordance with recommendations of the Immunization Practices Advisory Committee (ACIP). The parent or guardian of such child shall provide satisfactory evidence of the required immunizations.

2. A child who has not completed all immunizations appropriate for his age may enroll, if:

(1) Satisfactory evidence is produced that such child has begun the process of immunization. The child may continue to attend as long as the immunization process is being accomplished according to the ACIP/Missouri department of health and senior services recommended schedule; or

(2) The parent or guardian has signed and placed on file with the day care administrator a statement of exemption which may be either of the following:

(a) A medical exemption, by which a child shall be exempted from the requirements of this section upon certification by a licensed physician that such immunization would seriously endanger the child's health or life; or

(b) A parent or guardian exemption, by which a child shall be exempted from the requirements of this section if one parent or guardian files a written objection to immunization with the day care administrator. Exemptions shall be accepted by the day care administrator when the necessary information as determined by the department of health and senior services is filed with the day care administrator by the parent or guardian. Exemption forms shall be provided by the department of health and senior services.

3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, the administrator of the facility shall follow the control measures instituted by the local health authority or the department of health and senior services or both the local health authority and the department of health and senior services, as established in Rule 19 CSR 20-20.040, "Measures for the Control of Communicable Diseases".

4. The administrator of each public, private or parochial day care center, preschool or nursery school shall cause to be prepared a record of immunization of every child enrolled in or attending a facility under his jurisdiction. An annual summary report shall be made by January fifteenth showing the immunization status of each child enrolled, using forms provided for this purpose by the department of health and senior services. The immunization records shall be available for review by department of health and senior services personnel upon request.

5. For purposes of this section, satisfactory evidence of immunization means a statement, certificate or record from a physician or other recognized health facility or personnel, stating that the required immunizations have been given to the child and verifying the type of vaccine and the month, day and year of administration.

6. Nothing in this section shall preclude any political subdivision from adopting more stringent rules regarding the immunization of preschool children.

**HISTORY:** L. 1988 S.B. 797 § 1

**NOTES:**

EFFECTIVE 9-1-88

CROSS REFERENCES: Consent to immunization may be delegated to other persons, when, RSMo 431.058

Mandatory insurance coverage of immunizations, exceptions, RSMo 376.1215



1988 L. 1988 S.B. 797 § 1 (Effective September 1, 1988)

## EDUCATION AND LIBRARIES

575

7. Section 32.057, RSMo, shall apply to the secretary of state as equally as it applies to the director of revenue and the secretary of state shall maintain the confidentiality of all franchise tax reports returned to him. Such reports, however, may be made available at any time to the director of revenue and the director of revenue will maintain their confidentiality.

**Section B. Effective date.**—Section A of this act shall become effective on January 1, 1989, and shall apply to all taxable years beginning after December 31, 1988.

Approved June 15, 1988.

[C.C.S.H. C.S.S.C. S.S.B. 797]

### EDUCATION AND LIBRARIES: Schools.

AN ACT to repeal sections 160.051, 162.975, 163.011, 163.021, and 167.151, RSMo 1986, and section 168.021 enacted by house bill no. 158 in 1973, and section 168.021 enacted by house committee substitute for house bills nos. 1457 and 1501 in 1984 as both such sections appear in RSMo 1986, and section 168.071 enacted by house bill no. 1694 in 1978, and section 168.071 enacted by house committee substitute for house bills nos. 1457 and 1501 in 1984 as both such sections appear in RSMo 1986, and section 164.013, RSMo Supp. 1987, relating to schools, and to enact in lieu thereof nine new sections relating to the same subject, with an effective date.

#### SECTION

#### SECTION

- A. Enacting clause.  
 160.051. Public school system established—child attains age six, when—board shall provide free instruction for children between ages of five and six years.  
 162.975. State aid for special programs for handicapped or gifted children, how calculated.  
 163.011. Definitions.  
 163.021. Eligibility for state aid—requirements.  
 164.013. Schools, certain districts, operating levy adjustment required when, effect.

- 167.151. Admission of nonresident and other tuition pupils—certain pupils exempt from tuition—school tax credited against tuition—owners of agricultural land in more than one district, options, notice required, when.  
 168.021. Issuance of teachers' licenses.  
 168.071. Revocation, suspension or refusal of license, grounds—procedure—appeal.  
 1. Immunizations of children required, when, exceptions—duties of administrator, report.  
 B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

**Section A. Enacting clause.**—Sections 160.051, 162.975, 163.011, 163.021, and 167.151, RSMo 1986, and section 168.021 enacted by house bill no. 158 in 1973, and section 168.021 enacted by house committee substitute for house bills nos. 1457 and 1501 in 1984 as both such sections appear in RSMo 1986, and section 168.071 enacted by house bill no. 1694 in 1978, and section 168.071 enacted by house committee substitute for house bills nos. 1457 and 1501 in 1984 as both such sections appear in RSMo 1986, and section 164.013, RSMo Supp. 1987, are repealed and nine new sections enacted in lieu thereof, to be known as sections 160.051, 162.975, 163.011, 163.021, 164.013, 167.151, 168.021, 168.071, and 1, to read as follows:

160.051. Public school system established—child attains age six, when—board shall provide free instruction for children between ages of five and six years.—A system of free public schools is established throughout the state for the gratuitous instruction of persons between the ages of five and twenty years. Any child whose sixth birthday occurs before the first day of October for school year 1985-86, and before the first day of September for school year 1986-87, and before the first day of August for school year 1987-88 and before the first day of July for school year 1988-89 and each school year thereafter, shall be deemed to have attained the age of six years at the commencement of the term for the purpose of apportioning state school funds and for all other purposes. Gratuitous instruction for persons between the ages of five and six years shall be provided by the

5. Policies and procedures shall be established by which a teacher who was not retained due to a reduction in force may retain the current level of certification. There shall also be established policies and procedures for a teacher who has not been employed in an educational position for three years or more for reasons other than reduction in force.

6. The state board shall establish policies by which residents of states other than the state of Missouri may be assessed a fee for a certificate license to teach in the public schools of Missouri. Such fee shall be in an amount sufficient to recover any or all costs associated with the issuing of a certificate of license to teach.

**168.071. Revocation, suspension or refusal of license, grounds—procedure—appeal.—**

1. The Missouri state board of education may refuse to issue or renew, or may suspend or revoke a certificate of license to teach upon satisfactory proof of incompetency, cruelty, immorality, drunkenness, neglect of duty, or the annulling of a written contract for reasons other than election to the general assembly, with the local board of education without the consent of the majority of the members of the board which is a party to the contract. All charges must be preferred in writing. They shall be signed by the chief administrative officer of the district or by the president of the board when so authorized by a majority of the board. The charges must be sworn to by the party or parties making the accusation, and filed with the respective certifying authority. The teacher must be given due notice of not less than ten days, and an opportunity to be heard, together with witnesses. The complaint must plainly and fully specify what incompetency, immorality, neglect of duty or other charges are made against the teacher, and if after a hearing the certificate is refused, suspended, or revoked, the teacher may appeal to the circuit court at any time within ten days thereafter by filing a petition for review of the judgment of the certifying authority. On appeal the judge shall, with or without a jury at the option either of the teacher or the person making the complaint, try the matter de novo, affirming or denying the action of the certifying authority, and shall tax the cost against the appellant if the judgment of the certifying authority is affirmed. If the court disaffirms the judgment, then it shall assess the costs of the whole proceedings against the district making the complaint.

2. The state board of education may refuse to issue or may revoke a certificate of license to teach upon conviction of a felony or crime involving moral turpitude by any certificate holder including any such person employed by a nonpublic school.

**Section 1. Immunizations of children required, when, exceptions—duties of administrator, report.—**1. No child shall be permitted to enroll in or attend any public, private or parochial day care center, preschool or nursery school caring for ten or more children unless such child has been adequately immunized against vaccine preventable childhood illnesses specified by the department of health in accordance with recommendations of the Immunization Practices Advisory Committee (ACIP). The parent or guardian of such child shall provide satisfactory evidence of the required immunizations.

2. A child who has not completed all immunizations appropriate for his age may enroll, if:

(1) Satisfactory evidence is produced that such child has begun the process of immunization. The child may continue to attend as long as the immunization process is being accomplished according to the ACIP/Missouri department of health recommended schedule; or

(2) The parent or guardian has signed and placed on file with the day care administrator a statement of exemption which may be either of the following:

(a) A medical exemption, by which a child shall be exempted from the requirements of this section upon certification by a licensed physician that such immunization would seriously endanger the child's health or life; or

(b) A parent or guardian exemption, by which a child shall be exempted from the requirements of this section if one parent or guardian files a written objection to immunization with the day care administrator. Exemptions shall be accepted by the day care administrator when the necessary information as determined by the department of health is filed with the day care administrator by the parent or guardian. Exemption

forms shall be provided by the department of health.

3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, the administrator of the facility shall follow the control measures instituted by the local health authority or the department of health or both the local health authority and the department of health, as established in Rule 19 CSR 20-20.040, "Measures for the Control of Communicable Diseases".

4. The administrator of each public, private or parochial day care center, preschool or nursery school shall cause to be prepared a record of immunization of every child enrolled in or attending a facility under his jurisdiction. An annual summary report shall be made by January fifteenth showing the immunization status of each child enrolled, using forms provided for this purpose by the department of health. The immunization records shall be available for review by department of health personnel upon request.

5. For purposes of this section, satisfactory evidence of immunization means a statement, certificate or record from a physician or other recognized health facility or personnel, stating that the required immunizations have been given to the child and verifying the type of vaccine and the month, day and year of administration.

6. Nothing in this section shall preclude any political subdivision from adopting more stringent rules regarding the immunization of preschool children.

**Section B. Effective date.**—The provisions of this act shall become effective September 1, 1988.

Approved June 29, 1988.

[H. B. 1385]

# **EDUCATION AND LIBRARIES: Establish the Missouri commission for the deaf.**

AN ACT to establish the Missouri commission for the deaf.

## **SECTION**

## **SECTION**

1. Commission for the deaf created—appointment—qualifications—terms—expenses—chairperson—deaf members to be provided with interpreters, cost for, how paid.

2. Executive director—qualifications—compensation, office space, staff, to be provided by department.  
3. Commission to function as agency of state—purpose—powers and duties.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**Section 1. Commission for the deaf created—appointment—qualifications—terms—expenses—chairperson—deaf members to be provided with interpreters, cost for, how paid.**—1. As used in sections 1 to 3 of this act, the term "commission" means the Missouri commission for the deaf.

2. There is hereby established within the department of elementary and secondary education a commission, to be known as the "Missouri Commission for the Deaf", which shall be composed of nine members. Each member shall be appointed by the governor for a term of three years, except that, of the members first appointed, three shall be appointed for a term of three years, three for a term of two years and three for a term of one year. Of the members appointed, two shall be deaf, one shall be a parent of a deaf child, one shall be a representative of the Missouri Association of the Deaf, one shall be a representative of the Missouri school for the deaf, one shall be an employee of the division of vocational rehabilitation, one shall be an employee of the division of special education, one shall be a representative of local public school administration and one shall be a professional from one of the following fields: audiology, psychology, speech pathology, mental health or medicine. No person shall be eligible to serve more than two successive terms, except that a person appointed to fill a vacancy may serve two additional successive terms. The members shall receive no compensation for their services on the Missouri commission for the deaf, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties.

Montana  
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LexisNexis (R) Montana Code Annotated

\*\*\* This document is current through the 2013 Regular and Special Sessions \*\*\*

\*\*\* Annotations current through October 30, 2013 \*\*\*

TITLE 20 EDUCATION  
CHAPTER 5 PUPILS  
PART 4 HEALTH

[Go to the Montana Code Archive Directory](#)

20-5-405, MCA (2013)

20-5-405 Medical or religious exemption.

(1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school, if an adult, signs and files with the governing authority, prior to the commencement of attendance each school year, a notarized affidavit on a form prescribed by the department stating that immunization is contrary to the religious tenets and practices of the signer, immunization of the person seeking to attend the school may not be required prior to attendance at the school. The statement must be maintained as part of the person's immunization records. A person who falsely claims a religious exemption is subject to the penalty for false swearing provided in [45-7-202](#).

(2) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school, if an adult, files with the governing authority a written statement signed by a physician licensed to practice medicine in any jurisdiction of the United States or Canada stating that the physical condition of the person seeking to attend school or medical circumstances relating to the person indicate that some or all of the required immunizations are not considered safe and indicating the specific nature and probable duration of the medical condition or circumstances that contraindicate immunization, the person is exempt from the requirements of this part to the extent indicated by the physician's statement. The statement must be maintained as part of the person's immunization records.

(3) Whenever there is good cause to believe that a person for whom an exemption has been filed under this section has a disease or has been exposed to a disease listed in [20-5-403](#) or will as the result of school attendance be

exposed to the disease, the person may be excluded from the school by the local health officer or the department until the excluding authority is satisfied that the person no longer risks contracting or transmitting that disease.

**HISTORY:**

En. Sec. 4, Ch. 147, L. 1979; amd. Sec. 3, Ch. 102, L. 1983; amd. Sec. 4, Ch. 644, L. 1989; amd. Sec. 299, Ch. 56, L. 2009.

1989      amd. Sec. 4, Ch. 644, L. 1989      (Effective July 1, 1989)

Ch. 644                      MONTANA SESSION LAWS 1989                      1667

accomplishments by designating the 160 miles of U.S. Interstate Highway 15 between Butte and Great Falls as the "Maureen and Mike Mansfield heritage route".

*Be it enacted by the Legislature of the State of Montana:*

Section 1. **Maureen and Mike Mansfield heritage route.** The portion of U.S. interstate highway 15 between Butte and Great Falls is established as the Maureen and Mike Mansfield heritage route.

Approved May 5, 1989.

## CHAPTER NO. 644

[HB 364]

AN ACT TO REQUIRE IMMUNIZATION OF STUDENTS ATTENDING PRESCHOOLS, VOCATIONAL-TECHNICAL CENTERS, COLLEGES, AND UNIVERSITIES; TO INCLUDE MUMPS IN THOSE DISEASES THAT REQUIRE IMMUNIZATION PRIOR TO A STUDENT'S ATTENDANCE IN A SCHOOL OTHER THAN A POSTSECONDARY SCHOOL; TO ELIMINATE THE RIGHT OF A STUDENT TO BE EXEMPT FROM IMMUNIZATION ON PERSONAL GROUNDS; TO REQUIRE THAT A RELIGIOUS EXEMPTION BE REASSERTED ANNUALLY BY AFFIDAVIT, SUBJECT TO A PENALTY FOR FALSE SWEARING; TO REMOVE THE LIMIT ON THE LENGTH OF TIME THAT A STUDENT MAY BE EXCLUDED FROM SCHOOL DURING A DISEASE OUTBREAK IF THE STUDENT IS EXEMPT FROM IMMUNIZATION REQUIREMENTS; TO DELETE THE 30-DAY GRACE PERIOD FOR TRANSFER PUPILS; TO REQUIRE A SCHOOL TO RELEASE IMMUNIZATION RECORDS OF A TRANSFERRING PUPIL; AMENDING SECTIONS 20-5-402 THROUGH 20-5-405, AND 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 20-5-402, MCA, is amended to read:

**"20-5-402. Definitions.** For the purposes of this part, the following definitions apply:

- (1) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.
- (2) "Governing authority" means the board of trustees of a school district or the administrator of a private school, *preschool*, or *postsecondary school*.
- (3) "Immunization" means induction of a state of resistance to a disease through administration of an immunizing agent.

(4) "Local health officer" means a city, city-county, county, or district health officer.

(5) "Local health department" means a city, city-county, county, or district health department.

(6) "Postsecondary school" means a vocational-technical center, a community college, a unit of the Montana university system, or a private university or college.

(7) "Preschool" means a place or facility that provides, on a regular basis and as its primary purpose, educational instruction designed for children 5 years of age or younger and that:

(a) serves no child under 5 years of age for more than 3 hours a day; and

(b) serves no child 5 years of age for more than 6 hours a day.

(8) "School" means a place or institution for the teaching of individuals, the curriculum of which is comprised of the work of:

(a) any combination of kindergarten through grade 12;

(b) a postsecondary school; or

(c) a preschool."

Section 2. Section 20-5-403, MCA, is amended to read:

**"20-5-403. Immunization required — release and acceptance of immunization records.** (1) The governing authority of any school other than a postsecondary school may not allow any person to commence attendance as a pupil unless the person:

(a) has been immunized against diphtheria, pertussis, tetanus, poliomyelitis, rubella, mumps, and measles (rubeola) in the manner and with immunizing agents approved by the department, except that pertussis vaccination is not required for a person 7 years of age or older;

(b) qualifies for conditional attendance; or

(c) files for an exemption.

(2) (a) The governing authority of a postsecondary school may not allow any person to commence attendance as a pupil unless the person:

(i) has been immunized against rubella and measles (rubeola) in the manner and with immunizing agents approved by the department; or

(ii) files for an exemption.

(b) The governing authority of a postsecondary school may impose immunization requirements as a condition of attendance that are more stringent than those required by [this act].

(3) A pupil who transfers from one school district to another may photocopy immunization records in the possession of the school of origin. The school district to which a pupil transfers shall accept the photocopy as evidence of immunization. Within 30 days after a transferring pupil ceases

*attendance at the school of origin, the school shall send the original immunization records for the pupil to the school district to which the pupil transfers."*

Section 3. Section 20-5-404, MCA, is amended to read:

**"20-5-404. Conditional attendance.** The governing authority of a school *other than a postsecondary school* may allow the commencement of attendance in school by a person who has not been immunized against each disease listed in 20-5-403 if that person has received one or more doses of polio, measles (rubeola), mumps, rubella, diphtheria, pertussis, and tetanus vaccine, except that pertussis vaccine is not required for a person 7 years of age or older."

Section 4. Section 20-5-405, MCA, is amended to read:

**"20-5-405. Medical or religious exemption.** (1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school, if an adult, signs and files with the governing authority, *prior to the commencement of attendance each school year, a notarized affidavit* on a form prescribed by the department stating that immunization is contrary to the religious *tenets and practices* of the signer, immunization of the person seeking to attend the school may not be required prior to attendance at the school. The statement must be maintained as part of the person's immunization records. *A person who falsely claims a religious exemption is subject to the penalty for false swearing provided in 45-7-202.*

(2) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, files with the governing authority a written statement signed by a physician licensed to practice medicine in any jurisdiction of the United States or Canada stating that the physical condition of the person seeking to attend school or medical circumstances relating to him indicate that some or all of the required immunizations are not considered safe and indicating the specific nature and probable duration of the medical condition or circumstances which contraindicate immunization, he is exempt from the requirements of this part to the extent indicated by the physician's statement. The statement must be maintained as part of the person's immunization records.

(3) Whenever there is good cause to believe that a person for whom an exemption has been filed under this section has a disease or has been exposed to a disease listed in 20-5-403 or will as the result of school attendance be exposed to such disease, the person may be excluded from the school by the local health officer or the department until the excluding authority is satisfied that the person no longer risks contracting or transmitting that disease."

Section 5. Section 20-5-408, MCA, is amended to read:

**"20-5-408. Enforcement.** (1) The governing authority of any school *other than a postsecondary school* shall prohibit from further attendance any pupil allowed to attend conditionally who has failed to obtain the immunizations required by 20-5-403(1) within time periods established by



1670

MONTANA SESSION LAWS 1989

Ch. 645

the department until that pupil has been immunized as required by the department or unless that pupil has been exempted under 20-5-405.

(2) Each governing authority shall file a written report on the immunization status of all pupils under its jurisdiction with the department and the local health department at times and on forms prescribed by the department.

(3) The local and state health departments shall have access to all information relating to immunization of any pupil in any school."

Section 6. **Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 7. **Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 8. **Effective date.** [This act] is effective July 1, 1989.

Approved May 5, 1989.

## CHAPTER NO. 645

[HB 626]

AN ACT TO PROVIDE THE FACTORS THE PUBLIC SERVICE COMMISSION SHALL WEIGH AND BALANCE IN DETERMINING PUBLIC CONVENIENCE AND NECESSITY WITH RESPECT TO THE DUTY OF A RAILROAD TO FURNISH SHIPPING AND PASSENGER FACILITIES; AMENDING SECTION 69-14-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 69-14-202, MCA, is amended to read:

**"69-14-202. Duty to furnish shipping and passenger facilities.**

(1) Every person, corporation, or association operating a railroad in the state on January 1, 1987, or a successor thereto, shall maintain and staff facilities for shipment and delivery of freight and shall ship and deliver freight and accommodate passengers in such facilities as were maintained and staffed on January 1, 1987.

(2) However, if a person, corporation, or association operating a railroad demonstrates to the public service commission, following an opportunity for a public hearing in the community where the facility is situated, that a facility is not required for public convenience and necessity, the commission shall authorize the closure, consolidation, or centralization of the facility. *In determining public convenience and necessity, the commission shall, prior to making its decision, weigh and balance the facts and*

2009 (Approved March, 25, 2009)  
amd. Sec. 299, Ch. 56, L. 2009.

405

MONTANA SESSION LAWS 2009

Ch. 56

attendance at a school or excused from school within 2 days after the receipt of the notice, the attendance officer shall file a complaint against ~~such~~ *the* person in a court of competent jurisdiction.

(2) If convicted, ~~such~~ *the* person shall be fined not less than \$5 or more than \$20. In the alternative, ~~he~~ *the* person may be required to give bond in the penal sum of \$100, with sureties, conditioned upon ~~his~~ *the* person's agreement to cause the enrollment of ~~his~~ *the* child within 2 days ~~thereafter~~ in a school providing the courses of instruction required by this title and to cause the child to attend that school for the remainder of the current school term. If a person refuses to pay a fine and costs or to give a bond as ordered by the court, ~~he~~ *the* person shall be imprisoned in the county jail for a term of not less than 10 days or more than 30 days."

**Section 297.** Section 20-5-107, MCA, is amended to read:

**"20-5-107. Incapacitated and indigent child attendance.** In lieu of the provisions of 20-5-106 and when an attendance officer is satisfied that a pupil or a child subject to compulsory attendance is not able to attend school because ~~he~~ *the* child does not have the physical capacity or ~~he~~ *the* child is absolutely required to work at home or elsewhere in order to *provide* support ~~himself~~ *for the* child or ~~his~~ *the* child's family, the attendance officer shall report the case to the authorities charged with the relief of the poor. ~~It shall be the duty of such~~ *The* welfare authorities ~~to shall~~ offer ~~such~~ relief ~~as that~~ will enable the child to attend school. If the parent, guardian, or other person who is responsible for the care of the child denies or neglects the assistance offered to enable the child to attend school, the child ~~shall must~~ be committed to a state institution, at the discretion of the court."

**Section 298.** Section 20-5-111, MCA, is amended to read:

**"20-5-111. Responsibilities and rights of parent who provides home school.** Subject to the provisions of 20-5-109, a parent has the authority to instruct ~~his~~ *the* parent's child, stepchild, or ward in a home school and is solely responsible for:

- (1) the educational philosophy of the home school;
- (2) the selection of instructional materials, curriculum, and textbooks;
- (3) the time, place, and method of instruction; and
- (4) the evaluation of the home school instruction."

**Section 299.** Section 20-5-405, MCA, is amended to read:

**"20-5-405. Medical or religious exemption.** (1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school, if an adult, signs and files with the governing authority, prior to the commencement of attendance each school year, a notarized affidavit on a form prescribed by the department stating that immunization is contrary to the religious tenets and practices of the signer, immunization of the person seeking to attend the school may not be required prior to attendance at the school. The statement must be maintained as part of the person's immunization records. A person who falsely claims a religious exemption is subject to the penalty for false swearing provided in 45-7-202.

(2) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, files with the governing authority a written statement signed by a physician licensed to practice medicine in any jurisdiction of the United

States or Canada stating that the physical condition of the person seeking to attend school or medical circumstances relating to ~~him~~ *the person* indicate that some or all of the required immunizations are not considered safe and indicating the specific nature and probable duration of the medical condition or circumstances ~~which~~ *that* contraindicate immunization, ~~he~~ *the person* is exempt from the requirements of this part to the extent indicated by the physician's statement. The statement must be maintained as part of the person's immunization records.

(3) Whenever there is good cause to believe that a person for whom an exemption has been filed under this section has a disease or has been exposed to a disease listed in 20-5-403 or will as the result of school attendance be exposed to ~~such~~ *the* disease, the person may be excluded from the school by the local health officer or the department until the excluding authority is satisfied that the person no longer risks contracting or transmitting that disease."

**Section 300.** Section 20-5-406, MCA, is amended to read:

**"20-5-406. Immunization record.** The governing authority of each school shall require written evidence of each pupil's immunization against the diseases listed in 20-5-403 and shall record the immunization of each pupil as part of ~~his~~ *the pupil's* permanent school record on a form prescribed by the department."

**Section 301.** Section 20-6-103, MCA, is amended to read:

**"20-6-103. Permanent record of district boundaries.** (1) The board of county commissioners shall maintain a permanent record ~~which~~ *that* plainly and definitely describes the boundaries of each district within the county. The county superintendent shall keep a transcript of the record in ~~his~~ *the superintendent's* office and ~~shall be~~ *is* responsible for keeping the record current.

(2) If the county superintendent determines that the boundaries of any elementary district or high school district are in conflict or are incorrectly described, ~~he~~ *the superintendent* shall change, harmonize, and describe ~~them~~ *the boundaries* accurately; and ~~he~~ shall make a report of ~~such~~ *the* boundary adjustments to the board of county commissioners. When the board of county commissioners approves a district boundary report submitted by the county superintendent, ~~such~~ *the* boundaries ~~shall be~~ *are* the legal boundaries and description of the district within the county. Whenever district boundaries are clarified under this section, the county superintendent shall supply the trustees of the district with the legal descriptions of the boundaries of their district."

**Section 302.** Section 20-6-605, MCA, is amended to read:

**"20-6-605. Land acquired by conditional deed or at will or sufferance.** Whenever, ~~after March 17, 1939,~~ the trustees acquire land by deed conditioned upon the use of the land for the conduct of school or related activities or whenever land has been used by the trustees at the will or sufferance of the land's owner or claimant and the district has constructed buildings or made other improvements on the land, the owner or claimant may repossess the land if it ceases to be used as specified by deed or, if not specified, for the conduct of school or related activities. However, the owner or claimant shall first notify the trustees in writing of ~~his~~ *the* intent to repossess the land, and the trustees shall thereafter have 1 year ~~after receipt~~ to remove any buildings or improvements placed ~~there upon~~ *the land* by the district. The trustees' failure to remove the buildings or improvements within that time ~~shall constitute~~ *constitutes* a forfeiture of ~~such~~ *the* buildings or improvements. Before the owner or claimant ~~shall have~~ *has* the right to give notice of repossession, the district's intention to

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\*\*\* Current through the 2013 103rd First Session \*\*\*

\*\*\* Annotations current through September 6, 2013 \*\*\*

CHAPTER 79. SCHOOLS  
ARTICLE 2. PROVISIONS RELATING TO STUDENTS  
(c) ADMISSION REQUIREMENTS

[Go to the Nebraska Code Archive Directory](#)

**R.R.S. Neb. § 79-221 (2013)**

**§ 79-221.** Immunization; when not required

Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following:

(1) A statement signed by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her respective certification act, stating that, in the health care provider's opinion, the immunizations required would be injurious to the health and well-being of the student or any member of the student's family or household; or

(2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that immunization conflicts with the personal and sincerely followed religious beliefs of the student.

**HISTORY:** Laws 1993, LB 536, § 110; Laws 1995, LB 214, § 2; R.S.Supp., 1995, § 79-444.06; Laws 1996, LB 900, § 25; Laws 2000, LB 1115, § 88; Laws 2005, LB 256, § 97.

**NOTES:** EFFECT OF AMENDMENTS.

Laws 2005, LB 256, effective September 4, 2005, and operative July 1, 2007, in (1), inserted "practicing under and ... respective certification act" following "nurse."

1993 (Approved June 10, 1993) (Operative July 1, 1994)

Laws 1993, LB 536, § 110

LB 536

LB 536

Supplement, 1992, be amended to read as follows:

71-7101. Sections 71-7101 to 71-7111 and section 108 of this act shall be known and may be cited as the Critical Incident Stress Debriefing Act.

Sec. 108. Any information acquired during a debriefing session shall be confidential and shall not be disclosed except to the extent necessary to provide assistance pursuant to the debriefing session. Information otherwise available from the original source shall not be immune from discovery or use in any civil or criminal action merely because the information was presented during a debriefing session if the testimony sought is otherwise permissible and discoverable.

Sec. 109. That section 79-444.01, Revised Statutes Supplement, 1992, be amended to read as follows:

79-444.01. Each Except as provided in sections 110 to 112 of this act, each board of education and the governing authority of each school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization prior to November 1 of each school year for original enrollees or, in the case of a student transferring from another school, within sixty days after the enrollment date, unless a parent or guardian of such student presents a written statement that he or she does not wish to have such student so immunized. Such written statement shall be kept in the student's file. Any enrollment, and any student who does not comply with this section shall not be permitted to continue in school until he or she shall so comply except as provided by section 111 of this act. Each school district shall make diligent efforts to inform families prior to the date of school registration of the immunization requirements of this section.

Except as provided in the Childhood Vaccine Act, the cost of such immunization shall be borne by the parent or guardian of each student who is immunized or by the Department of Health for those students whose ~~parents or guardian are~~ parent or guardian is financially unable to meet such cost.

Sec. 110. Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following:

(1) A statement signed by a physician licensed under the Uniform Licensing Law stating that, in the physician's opinion, the immunizations required would be injurious to the health and well-being of the student or any member of the student's family or household; or

(2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that immunization conflicts with the personal and sincerely followed religious beliefs of the student.

Sec. 111. A student may be provisionally enrolled in a school in Nebraska if he or she has begun the immunizations required

1995 (Approved February 14, 1995)  
Laws 1995, LB 214, § 2

LEGISLATIVE BILL 214

Approved by the Governor February 14, 1995

Introduced by Wesely, 26; Schellpeper, 18; Hartnett, 45

AN ACT relating to student health; to amend sections 79-444 and 79-444.06, Reissue Revised Statutes of Nebraska; to allow more health care providers to give physical exams and immunization statements; to repeal the original sections; and to declare an emergency.  
 Be it enacted by the people of the State of Nebraska,

Section 1. Section 79-444, Reissue Revised Statutes of Nebraska, is amended to read:

79-444. (1) Except as provided in subsection (2) of this section, the board of education of any school district shall not admit any child into the kindergarten or beginner grade of any school of such school district unless such child has reached the age of five years or will reach such age on or before October 15 of the current year.

(2) The board of education may admit a child who will reach the age of five between October 16 and February 1 of the current school year if the parent or guardian requests such entrance and provides an affidavit stating that (a) the child attended kindergarten in another jurisdiction in the current school year or (b) the family anticipates a relocation to another jurisdiction within the current year.

(3) The board of education may require a birth certificate prior to entrance of a child into the beginner grade and shall require evidence of a physical examination by a qualified physician, physician assistant, or nurse practitioner within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school, except that no such physical examination shall be required of any child whose parent or guardian objects in writing. The cost of such physical examination shall be borne by the parent or guardian of each child who is examined.

(4) Any board of education in its discretion may (a) establish and financially support programs, including programs providing before-and-after-school or preschool services, to which attendance shall be voluntary and which the board may deem beneficial to the education of prekindergarten or school-age children and (b) provide or financially support transportation for children to, from, or to and from early childhood programs as defined in section 71-1910. The board may charge a fee, not to exceed the actual cost, for providing such programs and services but may waive such fee on the basis of need. This section shall not be construed to allow any school district to fail to meet its responsibilities under the Special Education Act.

Sec. 2. Section 79-444.06, Reissue Revised Statutes of Nebraska, is amended to read:

79-444.06. Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following:

(1) A statement signed by a physician, physician assistant, or nurse practitioner physician licensed under the Uniform Licensing Law stating that, in the ~~physician's~~ health care provider's opinion, the immunizations required would be injurious to the health and well-being of the student or any member of the student's family or household; or

(2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that immunization conflicts with the personal and sincerely followed religious beliefs of the student.

Sec. 3. Original sections 79-444 and 79-444.06, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.

1996 (Approved February 29, 1996)  
 Laws 1996, LB 900, § 25

LB 900

LB 900

district, in, near, or adjacent to the place where such officer or enlisted member is stationed so long as such officer or enlisted member may be is on active duty in Nebraska, and such children may be admitted to the public schools of any such district without payment of tuition.

The provisions of this section shall also apply ~~This section also applies~~ to children of parents employed by the federal government and residing with their parents on national parks or national monuments within this state.

Sec. 21. Section 79-444.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-444.01.~~ Except as provided in sections ~~79-444.06 and 79-444.07,~~ each 25 and 26 of this act, the school board or board of education and the of each school district and the governing authority of each private, denominational, or parochial school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization prior to enrollment. ~~Any~~ and any student who does not comply with this section shall not be permitted to continue in school until he or she shall so comply ~~so complies~~, except as provided by section ~~79-444.07 26 of this act~~. Each school district shall make diligent efforts to inform families prior to the date of school registration of the immunization requirements of this section.

Except as provided in the Childhood Vaccine Act, the cost of such immunization shall be borne by the parent or guardian of each student who is immunized or by the Department of Health for those students whose parent or guardian is financially unable to meet such cost.

Sec. 22. Section 79-444.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-444.02.~~ Any local school board or board of education of a school district or the governing authority of a private, denominational, or parochial school in this state may request assistance from the Department of Health in establishing immunization clinics. Such assistance shall consist of vaccines, serums, and other supplies, services, and guidance from the Director of Health.

Sec. 23. Section 79-444.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-444.03.~~ The Department of Health shall adopt and promulgate rules and regulations relating to the required levels of protection, provisional enrollment under the provisions of section ~~79-444.07 26 of this act~~, the evidence necessary to prove that the required examination or immunization has been received, and the reporting of each student's immunization status. The department may modify, add to, or delete from the list of required immunizations set out in section ~~79-444.01 21 of this act~~. The department shall furnish local school authorities with copies of such rules and regulations and any other material which will assist in the carrying out of sections ~~79-444 to 79-444.07 18 and 21 to 27 of this act~~.

Sec. 24. Section 79-444.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-444.04.~~ At the time the parent or guardian of any child is notified that such child must have a physical examination pursuant to section ~~79-444, 18 of this act~~ or immunizations pursuant to section ~~79-444.01 21 of this act~~, he or she shall also be notified in writing of his or her right to submit a written statement refusing a physical examination or immunization for his or her child.

Sec. 25. Section 79-444.06, Revised Statutes Supplement, 1993, is amended to read:

~~79-444.03.~~ Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following:

(1) A statement signed by a physician, physician assistant, or nurse practitioner stating that, in the health care provider's opinion, the immunizations required would be injurious to the health and well-being of the student or any member of the student's family or household; or

(2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that immunization conflicts with the personal and sincerely followed religious beliefs of the student.

Sec. 26. Section 79-444.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-444.07.~~ (1) A student may be provisionally enrolled in a school in Nebraska if he or she meets either of the following qualifications:

(a) The student has begun the immunizations required under section

2000 (Approved April 13, 2000)  
 Laws 2000, LB 1115, § 88

LB 1115

LB 1115

nonsmoking employees.

(3) No person shall smoke at a site where child care programs required to be licensed under section 71-1911 are provided. This prohibition does not apply if the child care program is located in the home of the provider.

(4) Smoking is prohibited in all vehicles owned or leased by the state and in all buildings, and the area within ten feet of any entrance of such buildings, which are owned, leased, or occupied by the state except as provided in subsections (5), (6), and (7) of this section.

(5) The following buildings or areas within buildings in which persons reside or lodge may be exempt from this section: (a) Nebraska veterans homes established pursuant to section 80-315; (b) private residences; (c) facilities and institutions under the control of the Department of Health and Human Services; and (d) overnight lodging facilities and buildings managed by the Game and Parks Commission, but no more than twenty-five percent of the overnight lodging facilities at each park location shall permit smoking.

(6) Designated smoking areas not to exceed fifty percent of the space used by the public may be established in state-owned buildings at the Nebraska State Fairgrounds that possess a Class C, I, or M license for the sale of alcoholic liquor for consumption on the premises under the Nebraska Liquor Control Act.

(7) Smoking may be permitted in no more than forty percent of the residential housing rooms or units owned or leased on each campus under the control of the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges.

Sec. 86. Section 71-8207, Revised Statutes Supplement, 1998, is amended to read:

71-8207. Basic level trauma center means a trauma center which has a trauma-trained physician, nurse practitioner, advanced practice registered nurse, or physician assistant available within fifteen minutes to provide stabilization and transfer to a higher level trauma center when appropriate, which has basic equipment for resuscitation and stabilization, and which may provide limited surgical intervention based upon the expertise of available onsite staff.

Sec. 87. Section 79-214, Revised Statutes Supplement, 1998, is amended to read:

79-214. (1) Except as provided in subsection (2) of this section, the school board or board of education of any school district shall not admit any child into the kindergarten or beginner grade of any school of such school district unless such child has reached the age of five years or will reach such age on or before October 15 of the current year.

(2) The board may admit a child who will reach the age of five between October 16 and February 1 of the current school year if the parent or guardian requests such entrance and provides an affidavit stating that (a) the child attended kindergarten in another jurisdiction in the current school year, (b) the family anticipates relocation to another jurisdiction that would allow admission within the current year, or (c) the child has demonstrated through recognized assessment procedures approved by the board that he or she is capable of carrying the work of kindergarten or the beginner grade.

(3) The board may require a birth certificate prior to entrance of a child into the beginner grade and shall require evidence of a physical examination by a physician, a physician assistant, or an advanced practice registered nurse practitioner within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school, except that no such physical examination shall be required of any child whose parent or guardian objects in writing. The cost of such physical examination shall be borne by the parent or guardian of each child who is examined.

Sec. 88. Section 79-221, Reissue Revised Statutes of Nebraska, is amended to read:

79-221. Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following:

(1) A statement signed by a physician, a physician assistant, or an advanced practice registered nurse practitioner stating that, in the health care provider's opinion, the immunizations required would be injurious to the health and well-being of the student or any member of the student's family or household; or

(2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that





LB 1115

LB 1115

immunization conflicts with the personal and sincerely followed religious beliefs of the student.

Sec. 89. Section 79-11,145, Revised Statutes Supplement, 1999, is amended to read:

79-11,145. The Community-Based Neurobehavioral Rehabilitation Advisory Board is created to provide, in an advisory capacity, advice and recommendations to the State Department of Education in applying for federal grants, the completion of a statewide needs and resource assessment, and the development of a statewide action plan and reports as required by the Community-Based Neurobehavioral Action Plan Act. In developing recommendations, the board shall consult with federal, state, and local governmental agencies, with citizen groups, and with other private entities. The board shall be composed of at least nine and not more than fifteen members including:

(1) The administrator of the Office of Special Populations of the State Department of Education or his or her designee;

(2) The director of the Division of Rehabilitation Services of the State Department of Education or his or her designee;

(3) The administrator of the Department of Health and Human Services, maternal and child health, children with special health care needs program;

(4) Representatives of public and nonprofit private health-related organizations;

(5) Representatives of other disability advisory or planning groups in the state;

(6) Members of an organization or foundation representing traumatic brain injury survivors in the state;

(7) Representatives of injury control programs at the state or local level if such programs exist; and

(8) A substantial number of individuals who are survivors of traumatic brain injury or the family members of such individuals.

The members of the board shall be appointed by the Commissioner of Education within sixty days after ~~May 26, 1999~~ February 1, 2000. Any vacancy occurring on the board shall be filled from the same category and in the same manner as the original appointment was made.

Members of the board shall be reimbursed for their actual and necessary expenses pursuant to sections 81-1174 to 81-1177 from the funds appropriated under section 79-11,148. The board shall select a chairperson and such other officers as it deems necessary to perform its functions and shall establish rules and regulations to govern its procedures.

Sec. 90. Section 79-11,146, Revised Statutes Supplement, 1999, is amended to read:

79-11,146. The statewide needs and resource assessment shall include, but not be limited to, an assessment of the full spectrum of care and services from initial acute treatment through community reintegration for individuals of all ages having traumatic brain injury. The statewide action plan shall include, but not be limited to, the development of a comprehensive, community-based system of care that encompasses physical, psychological, educational, vocational, and social aspects of traumatic brain injury services and addresses the needs of the individual having traumatic brain injury as well as family members. A report of the statewide needs and resources assessment and the statewide action plan shall be made to the Legislature, the State Department of Education, and the Department of Health and Human Services by ~~December 31, 1999~~ June 30, 2001.

Sec. 91. Section 79-11,149, Revised Statutes Supplement, 1999, is amended to read:

79-11,149. The Community-Based Neurobehavioral Action Plan Act terminates on ~~July 31, 2000~~ July 31, 2001.

Sec. 92. Original sections 18-1738, 37-1254.06, 48-1903, 60-4,164.01, 60-6,201, 60-6,202, 60-6,204, 68-1050, 71-1,132.07, 71-1,132.08, 71-1,143, 71-1,147.01, 71-1,160, 71-1704 to 71-1708, 71-1709.01 to 71-1710, 71-1712, 71-1714, 71-1716 to 71-1716.03, 71-1716.05, 71-1717, 71-1718.01, 71-1718.02, 71-1721, 71-1721.07, 71-1723 to 71-1727, 71-1775, 71-1776, 71-1777, 71-1780, 71-1781, 71-1784, 71-3515.02, 71-4401, 71-5303, 71-5306, 71-5652, and 79-221, Reissue Revised Statutes of Nebraska, sections 68-1021, 71-1,132.02, 71-1,147.57, 71-1,147.58, 71-1,198, 71-1,339, 71-541, 71-1722, 71-1778, 71-2610.01, 71-3505, 71-5191, 71-5653, 71-5662, 71-5663, 71-5665, 71-5668, 71-8207, and 79-214, Revised Statutes Supplement, 1998, and sections 28-405, 44-2847, 71-168, 71-1,103, 71-1,132.11, 71-1735, 71-1774, 71-1913.01, 71-3507, 71-5707, 79-11,145, 79-11,146, and 79-11,149, Revised Statutes Supplement, 1999, are repealed.

Sec. 93. The following sections are outright repealed: Sections

2005 (Approved June 2, 2005)  
 Laws 2005, LB 256, § 97

LB 256

LB 256

to another, which is not generally used by persons with normal mobility, and which is appropriate for use either in a home or a motor vehicle. Mobility enhancing equipment includes repair and replacement parts for such equipment. Mobility enhancing equipment does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer;

(e) Over-the-counter drug means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. 201.66, as such regulation existed on January 1, 2003. The over-the-counter drug label includes a drug facts panel or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation;

(f) Oxygen equipment means oxygen cylinders, cylinder transport devices including sheaths and carts, cylinder studs and support devices, regulators, flowmeters, tank wrenches, oxygen concentrators, liquid oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing, nasal cannulas, face masks, oxygen humidifiers, and oxygen fittings and accessories;

(g) Prescription means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized under the Advanced Practice Registered Certified Registered Nurse Anesthetist Act, the Nebraska Certified Nurse Midwifery Practice Act, or the Nurse Practitioner Act, Chapter 71, article 1, or sections 71-4701 to 71-4719; and

(h) Prosthetic devices means a replacement, corrective, or supportive device worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body, and includes any supplies used with such device and repair and replacement parts.

Sec. 96. Section 79-214, Reissue Revised Statutes of Nebraska, is amended to read:

79-214. (1) Except as provided in subsection (2) of this section, the school board of any school district shall not admit any child into the kindergarten or beginner grade of any school of such school district unless such child has reached the age of five years or will reach such age on or before October 15 of the current year.

(2) The board may admit a child who will reach the age of five between October 16 and February 1 of the current school year if the parent or guardian requests such entrance and provides an affidavit stating that (a) the child attended kindergarten in another jurisdiction in the current school year, (b) the family anticipates relocation to another jurisdiction that would allow admission within the current year, or (c) the child has demonstrated through recognized assessment procedures approved by the board that he or she is capable of carrying the work of kindergarten or the beginner grade.

(3) The board shall comply with the requirements of subsection (2) of section 43-2007 and shall require evidence of a physical examination by a physician, a physician assistant, or an advanced practice registered nurse, practicing under and in accordance with his or her respective certification act, within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school, except that no such physical examination shall be required of any child whose parent or guardian objects in writing. The cost of such physical examination shall be borne by the parent or guardian of each child who is examined.

Sec. 97. Section 79-221, Reissue Revised Statutes of Nebraska, is amended to read:

79-221. Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following:

(1) A statement signed by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her respective certification act, stating that, in the health care provider's opinion, the immunizations required would be injurious to the health and well-being of the student or any member of the student's family or household; or

(2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that immunization conflicts with the personal and sincerely followed religious beliefs of the student.

Sec. 98. Section 83-4,157, Revised Statutes Supplement, 2004, is amended to read:

83-4,157. The medical director shall:

Nevada  
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NEVADA REVISED STATUTES ANNOTATED  
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\*\*\* This document is current through the Seventy-Seventh (2013) and the  
Twenty-Seventh Special (2013) Session\*\*\*

\*\*\* ANNOTATIONS CURRENT THROUGH OPINIONS POSTED AS OF  
SEPTEMBER 27, 2013 \*\*\*

TITLE 34. Education.  
CHAPTER 392. Pupils.  
School Uniforms; Health and Safety

Nev. Rev. Stat. Ann. § 392.437 (2013)

**392.437.** Immunization of pupils: Exemption if prohibited by religious belief.

A public school shall not refuse to enroll a child as a pupil because the child has not been immunized pursuant to NRS 392.435 if the parents or guardian of the child has submitted to the board of trustees of the school district or the governing body of a charter school in which the child has been accepted for enrollment a written statement indicating that their religious belief prohibits immunization of such child or ward.

**HISTORY:** 1971, p. 1040; 1997, ch. 480, § 59, p. 1876.

#### **NOTES:**

#### **RESEARCH REFERENCES**

The Children We Abandon: Religious Exemptions to Child Welfare and Education Laws As Denials of Equal Protection to Children of Religious Objectors .74 N.C. L. Rev. 1321 (1996).

Religious Exemptions to Childhood Immunization Statutes: Reaching for a More Optimal Balance Between Religious Freedom and Public Health. 29 Loy. U. Chi. L.J. 109 (1997).

1971 (Approved April 24, 1971)  
 1971 Chapter 504 Section 3 & 4

1040

LAWS OF NEVADA

Assembly Bill No. 713—Messrs. Schofield, Swallow, Glaser, Mrs. Frazzini, Messrs. Frank Young, Wilson, Ronzone, Miss Foote, Mr. Ashworth, Miss Hawkins, Messrs. Smalley, May, Dreyer, Mrs. White, Messrs. Poggione, Olsen, Smith, Branch, Kean and Howard

CHAPTER 504

AN ACT relating to public and private school pupils; requiring a child entering school for the first time or a child already in attendance to be immunized or be in the process of being immunized for certain diseases; and providing other matters properly relating thereto.

[Approved April 24, 1971]

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

SEC. 2. *1. Within 3 months after any child is enrolled in a public school within this state for the first time, his parents or guardian shall submit to the board of trustees of the school district in which the child resides a certificate or certificates stating that the child has been immunized and has received or is in the process of receiving proper boosters for such immunization or is in the process of being immunized for the following diseases:*

*(a) Diphtheria;*

*(b) Tetanus;*

*(c) Pertussis if the child is under 6 years of age;*

*(d) Poliomyelitis;*

*(e) Rubella; and*

*(f) Such other diseases as the board of trustees may determine.*

*2. The certificate or certificates required in subsection 1 shall show that such required immunization vaccines and boosters were given, and shall bear the signature of the licensed physician or registered nurse who administered such vaccines or boosters. If records are not available from a licensed physician or registered nurse, a sworn statement from the parent or guardian shall suffice.*

SEC. 3. *A public school shall not refuse to enroll a child as a pupil because such child has not been immunized pursuant to section 2 of this act if the parents or guardian of such child have submitted to the board of trustees a written statement indicating that their religious belief prohibits immunization of such child or ward.*

SEC. 4. *If the medical condition of a child will not permit him to be immunized to the extent required by section 2 of this act, a written statement of this fact signed by a licensed physician and presented to the board of trustees by the parents or guardian of such child shall exempt such child from all or part of the provisions of section 2 of this act, as the case may be, for enrollment purposes.*

SEC. 5. *Clinics for the immunization of school-age children for the diseases enumerated in section 2 of this act shall be held by the county, city, town or district boards of health, as the case may be, not less than 1 month prior to the opening date of the school year in the respective counties, cities and towns within the state.*

1997 (Approved July 16, 1997)  
 392.437 & 392.439

**Sec. 58. NRS 392.435** is hereby amended to read as follows:

**392.435** 1. Unless excused because of religious belief or medical condition, a child may not be enrolled in a public school within this state unless his parents or guardian submit to the board of trustees of the school district in which the child resides *or the governing body of the charter school in which the child has been accepted for enrollment* a certificate stating that the child has been immunized and has received proper boosters for that immunization or is complying with the schedules established by regulation pursuant to NRS 439.550 for the following diseases:

- (a) Diphtheria;
- (b) Tetanus;
- (c) Pertussis if the child is under 6 years of age;
- (d) Poliomyelitis;
- (e) Rubella;
- (f) Rubeola; and

(g) Such other diseases as the local board of health or the state board of health may determine.

2. The certificate must show that the required vaccines and boosters were given and must bear the signature of a licensed physician or his designee or a registered nurse or his designee, attesting that the certificate accurately reflects the child's record of immunization.

3. If the requirements of subsection 1 can be met with one visit to a physician or clinic, procedures for conditional enrollment do not apply.

4. A child may enter school conditionally if the parent or guardian submits a certificate from a physician or local health officer that the child is receiving the required immunizations. If a certificate from the physician or local health officer showing that the child has been fully immunized is not submitted to the appropriate school officers within 90 school days after the child was conditionally admitted, the child must be excluded from school and may not be readmitted until the requirements for immunization have been met. A child who is excluded from school pursuant to this section is a neglected child for the purposes of NRS 432.100 to 432.130, inclusive, and chapter 432B of NRS.

5. Before December 31 of each year, each school district *and the governing body of each charter school* shall report to the health division of the department of human resources, on a form furnished by the division, the exact number of pupils who have completed the immunizations required by this section.

6. The certificate of immunization must be included in the pupil's academic or cumulative record and transferred as part of that record upon request.

**Sec. 59. NRS 392.437** is hereby amended to read as follows:

**392.437** A public school shall not refuse to enroll a child as a pupil because [such] *the* child has not been immunized pursuant to NRS 392.435 if the parents or guardian of [such child have] *the child has* submitted to the board of trustees *of the school district or the governing body of a charter school in which the child has been accepted for enrollment* a written statement indicating that their religious belief prohibits immunization of such child or ward.

**Sec. 60.** NRS 392.439 is hereby amended to read as follows:

392.439 If the medical condition of a child will not permit him to be immunized to the extent required by NRS 392.435 [.] *and a written statement of this fact is signed by a licensed physician and [presented to the board of trustees] by the parents or guardian of [such] the child , the board of trustees of the school district or governing body of the charter school in which the child has been accepted for enrollment shall exempt [such] the child from all or part of the provisions of NRS 392.435, as the case may be, for enrollment purposes.*

**Sec. 61.** NRS 392.443 is hereby amended to read as follows:

392.443 If, after a child has been enrolled in a public school and before registration for any subsequent school year additional immunization requirements are provided by law, the child's parents or guardian shall submit an additional certificate or certificates to the board of trustees *or the governing body of the charter school in which the child is enrolled* stating that [such] *the child* has met the new immunization requirements.

**Sec. 62.** NRS 392.446 is hereby amended to read as follows:

392.446 Whenever the state board of health or a local board of health determines that there is a dangerous contagious disease in a public school attended by a child for whom exemption from immunization is claimed pursuant to the provisions of NRS 392.437 or 392.439, the board of trustees of the school district *or the governing body of the charter school in which the child is enrolled* shall require either:

1. That the child be immunized; or
2. That he remain outside the school environment and the local health officer be notified.

**Sec. 63.** NRS 392.450 is hereby amended to read as follows:

392.450 1. The board of trustees of [a] *each school district and the governing body of each charter school* shall provide drills for the pupils in the schools in the school district *or the charter schools* at least once [a] *each month during the school year* to instruct those pupils in the appropriate procedures to be followed in the event of a fire or other emergency. Not more than three of those drills may include instruction in the appropriate procedures to be followed in the event of a chemical explosion, related emergencies and other natural disasters.

2. In all cities or towns which have regularly organized, paid fire departments or voluntary fire departments, the drills required by subsection 1 must be conducted under the supervision of the:

- (a) Person designated for this purpose by the board of trustees of the school district [.] *or the governing body of a charter school; and*
- (b) Chief of the fire department of the city or town.

3. A diagram of the approved escape route and any other information related to the drills which is approved by the chief of the fire department or, if there is no fire department, the state fire marshal must be kept posted in every classroom of every public school by the principal or teacher in charge thereof.

4. The principal, teacher or other person in charge of each school building shall cause the provisions of this section to be enforced.

5. Any violation of the provisions of this section is a misdemeanor.



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\*\*\* Statutes current through Chapter 279 of the 2013 Session \*\*\*

\*\*\* Annotations current through cases decided November 26, 2013 \*\*\*

TITLE X Public Health  
CHAPTER 141-C Communicable Disease

GO TO NEW HAMPSHIRE STATUTES ARCHIVE DIRECTORY

**RSA 141-C:20-c** (2013)

**141-C:20-c** Exemptions.

A child shall be exempt from immunization if:

I. A physician licensed under RSA 329, or a physician exempted under RSA 329:21, III, certifies that immunization against a particular disease may be detrimental to the child's health. The exemption shall exist only for the length of time, in the opinion of the physician, such immunization would be detrimental to the child. An exemption from immunization for one disease shall not affect other required immunizations.

II. A parent or legal guardian objects to immunization because of religious beliefs. The parent or legal guardian shall sign a notarized form stating that the child has not been immunized because of religious beliefs.

**HISTORY:** 1987, 193:7, eff. Jan. 1, 1988. 2001, 18:1, eff. Jan. 1, 2002.

**NOTES:** Amendments

--2001.

Paragraph I: Inserted "or a physician exempted under RSA 329:21, III" in the first sentence.

LexisNexis 50 State Surveys, Legislation & Regulations  
Day Care & Early Childhood Education

HIERARCHY NOTES:  
Tit. X, Ch. 141-C Note

1987, 193:7, eff. Jan. 1, 1988  
 193.7 (Effective Jan 1, 1988)

166

## CHAPTER 193

[1987

**193:7 New Sections.** Amend RSA 141-C by inserting after section 20 the following new sections:

### **141-C:20-a Immunization.**

I. All parents or legal guardians shall have their children who are residing in this state immunized against certain diseases. These diseases shall include, but not be limited to, diphtheria, mumps, pertussis, poliomyelitis, rubella, rubeola, and tetanus. The director shall adopt rules under RSA 541-A relative to other diseases which require immunization.

II. No child shall be admitted or enrolled in any school or child care agency, public or private, unless the following is demonstrated:

- (a) Immunization under paragraph I;
- (b) Partial immunization relative to the age of the child as specified in rules adopted by the director; or
- (c) Exemption under RSA 141-C:20-c.

### **141-C:20-b Records.**

I. Any person who immunizes a child shall complete a form to be supplied by the director and shall give the completed form to the parent or legal guardian.

II. Schools and child care agencies shall keep immunization records for all enrolled children. Such records shall be available for inspection during reasonable hours upon request by the director or his designee.

### **141-C:20-c Exemptions.** A child shall be exempt from immunization if:

I. A physician licensed under RSA 329 certifies that immunization against a particular disease may be detrimental to the child's health. The exemption shall exist only for the length of time, in the opinion of the physician, such immunization would be detrimental to the child. An exemption from immunization for one disease shall not affect other required immunizations.

II. A parent or legal guardian objects to immunization because of religious beliefs. The parent or legal guardian shall sign a notarized form stating that the child has not been immunized because of religious beliefs.

**141-C:20-d Exclusion During Outbreak of Disease.** During an outbreak of a communicable disease for which immunization is required under RSA 141-C:20-a, children exempted under RSA 141-C:20-c shall not attend the school or child care agency threatened by the communicable disease. The director shall prepare a written order as required under RSA 141-C:12, I.

**141-C:20-e Immunization Reports.** Schools and child care agencies, whether public or private, shall make an annual report to the director relative to the status of immunization of all enrolled children.

**193:8 Control and Prevention of Communicable Diseases.** RSA 200:38 is repealed and reenacted to read as follows:

### **200:38 Control and Prevention of Communicable Diseases.**

I. All children shall be immunized prior to school entrance in accordance with RSA 141-C:20-a.

II. All children shall be examined prior to school entrance and periodically during the school years to detect the presence of tuberculosis.

**193:9 Effective Date.** This act shall take effect January 1, 1988.

[Approved May 15, 1987.]

[Effective Date January 1, 1988.]

2001, 18:1  
Effective Jan 1, 2002

12

CHAPTER 18

[2001

### CHAPTER 18 (HB 118)

AN ACT AUTHORIZING PHYSICIANS WHO PRACTICE MEDICINE IN CERTAIN STATES OTHER THAN THE STATE OF NEW HAMPSHIRE TO COMPLETE CERTIFICATIONS EXEMPTING CHILDREN RESIDING IN THE STATE OF NEW HAMPSHIRE FROM IMMUNIZATION.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**18:1 Exemptions From Immunization.** Amend RSA 141-C:20-c, I to read as follows:

I. A physician licensed under RSA 329, or a physician exempted under RSA 329:21, III, certifies that immunization against a particular disease may be detrimental to the child's health. The exemption shall exist only for the length of time, in the opinion of the physician, such immunization would be detrimental to the child. An exemption from immunization for one disease shall not affect other required immunizations.

**18:2 Effective Date.** This act shall take effect January 1, 2002.

(Approved: April 27, 2001)

(Effective Date: January 1, 2002)

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### CHAPTER 19 (HJR 3)

A RESOLUTION ENCOURAGING THE PRESERVATION OF THE SYSTEM OF LOCKS ON THE MERRIMACK RIVER.

Whereas, the system of locks on the Merrimack river built during the nineteenth century was a remarkable feat of civil engineering; and

Whereas, this system of locks allowed the development of New Hampshire's industry during the industrial revolution; and

Whereas, this system of locks represents a link to New Hampshire's historical past; and

Whereas, 11 locks currently remain on New Hampshire's portion of the Merrimack, all in varying stages of disrepair; and

Whereas, New Hampshire is in jeopardy of permanently losing these often overlooked historical and cultural treasures; now, therefore, be it

Resolved by the Senate and House of Representatives in General Court convened:

That the general court hereby recognizes the historical and cultural importance of preserving the system of locks along the Merrimack for the education, inspiration, pleasure, and enrichment of the citizens of and visitors to this state; and

That it should be the policy of the state of New Hampshire to preserve these engineering structures; and

That the department of cultural resources, being the state agency with primary jurisdiction over preserving historical structures and therefore the Merrimack locks, do all within its power to preserve the locks on the Merrimack; and

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\*\*\* This section is current through New Jersey 215th Legislature \*\*\*  
Second Annual Session, P.L. 2013 c. 268 and JR 14  
State Constitution current through Nov. 2013

TITLE 18A. EDUCATION  
SUBTITLE 8A. HIGHER EDUCATION; PUBLIC AND NONPUBLIC  
INSTITUTIONS  
CHAPTER 61D. RULES AND REGULATIONS

[GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY](#)

N.J. Stat. § 18A:61D-3 (2013)

§ 18A:61D-3. Conflict with religious beliefs

A student who submits to the institution of higher education a written statement that immunization conflicts with his religious beliefs shall not be required to submit a list of immunizations to the institution as a condition of admission or continued enrollment.

**HISTORY:** L. 1988, c. 158, § 3.

LexisNexis (R) Notes:

CASE NOTES

1. Patient was permitted to waive vaccinations under former N.J. Stat. Ann. § 18:14-52 (now N.J. Stat. Ann. § 26:1A-9.1), based upon his religious beliefs, without demonstrating that he was a member of a recognized religious group. Kolbeck v. Kramer, 84 N.J. Super. 569, 202 A.2d 889, 1964 N.J. Super. LEXIS 375 (Law Div. 1964), modified by 46 N.J. 46, 214 A.2d 408, 1965 N.J. LEXIS 137 (1965).

1988 L. 1988, c. 158, § 3. Approved November 16, 1988, Effective September 1, 1989

## 1010 CHAPTERS 156, 157 & 158, LAWS OF 1988

Failure to produce at the time of trial an insurance identification card or an insurance policy which was in force for the time of operation for which the offense is charged, creates a rebuttable presumption that the person was uninsured when charged with a violation of this section.

### **Repealer.**

16. Sections 29 and 30 of P.L. 1988, c. 119 (C. 17:29A-42 and 17:29A-43) are repealed.

17. This act shall take effect immediately, except that sections 6 and 7 shall take effect on the 365th day following enactment.

Approved November 14, 1988.

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## CHAPTER 157

AN ACT concerning the posting of notice of primary elections and repealing R.S. 19:23-2.

*BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:*

### **Repealer.**

1. R.S. 19:23-2 is repealed.

2. This act shall take effect immediately.

Approved November 16, 1988.

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## CHAPTER 158

AN ACT requiring students enrolled in institutions of higher education to provide documentation of certain immunizations and supplementing chapter 3 of Title 18A of the New Jersey Statutes.

*BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:*

### **C. 18A:61D-1 Immunization record.**

1. Every public and independent institution of higher education in this State shall, as a condition of admission or continued en-

## CHAPTER 158, LAWS OF 1988

1011

rollment, require every graduate and undergraduate student who is 30 years of age or less and is enrolled full-time or part-time in a program or course of study leading to an academic degree, to submit to the institution a valid immunization record which documents the administration of all required immunizations against vaccine-preventable disease, or evidence of immunity from these diseases, in accordance with regulations promulgated by the State Board of Higher Education. The institution shall keep the records on file in such form and manner as prescribed by the State board.

**C. 18A:61D-2 Exemption.**

2. An institution may, in accordance with regulations promulgated by the State board, exempt from the requirements of section 1 of this act any student who attended an elementary or secondary school located in this State.

**C. 18A:61D-3 Conflict with religious beliefs.**

3. A student who submits to the institution of higher education a written statement that immunization conflicts with his religious beliefs shall not be required to submit a list of immunizations to the institution as a condition of admission or continued enrollment.

**C. 18A:61D-4 Contraindication.**

4. A student who submits to the institution a written statement that an immunization is medically contraindicated shall submit a valid immunization record of other administered immunizations in accordance with regulations promulgated by the State board.

**C. 18A:61D-5 Liability not imposed.**

5. The provisions of this act shall not be construed as holding any institution of higher education liable for failure to notify a student of any outbreak of contagious disease, or the threat of any disease outbreak.

**C. 18A:61D-6 Rules, regulations.**

6. The State Board of Higher Education, in consultation with the Department of Health, shall, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), promulgate rules and regulations necessary to effectuate the provisions of this act.

7. This act shall take effect September 1, 1989, except that the Department of Higher Education may immediately take such administrative action as may be necessary for the implementation of this act.

Approved November 16, 1988.

LexisNexis (TM) New Jersey Annotated Statutes

\*\*\* This section is current through New Jersey 215th Legislature \*\*\*

Second Annual Session, P.L. 2013 c. 268 and JR 14

State Constitution current through Nov. 2013

TITLE 18A. EDUCATION

SUBTITLE 8A. HIGHER EDUCATION; PUBLIC AND NONPUBLIC  
INSTITUTIONS

CHAPTER 61D. RULES AND REGULATIONS

[GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY](#)

N.J. Stat. § 18A:61D-4 (2013)

§ 18A:61D-4. Contraindication

A student who submits to the institution a written statement that an immunization is medically contraindicated shall submit a valid immunization record of other administered immunizations in accordance with regulations promulgated by the department.

**HISTORY:** L. 1988, c. 158, § 4; amended 1994, c. 48, § 83.

1988 L. 1988, c. 158, § 4

Approved November 16, 1988, Effective September 1, 1989

## 1010 CHAPTERS 156, 157 & 158, LAWS OF 1988

Failure to produce at the time of trial an insurance identification card or an insurance policy which was in force for the time of operation for which the offense is charged, creates a rebuttable presumption that the person was uninsured when charged with a violation of this section.

### **Repealer.**

16. Sections 29 and 30 of P.L. 1988, c. 119 (C. 17:29A-42 and 17:29A-43) are repealed.

17. This act shall take effect immediately, except that sections 6 and 7 shall take effect on the 365th day following enactment.

Approved November 14, 1988.

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## CHAPTER 157

AN ACT concerning the posting of notice of primary elections and repealing R.S. 19:23-2.

*BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:*

### **Repealer.**

1. R.S. 19:23-2 is repealed.
2. This act shall take effect immediately.

Approved November 16, 1988.

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## CHAPTER 158

AN ACT requiring students enrolled in institutions of higher education to provide documentation of certain immunizations and supplementing chapter 3 of Title 18A of the New Jersey Statutes.

*BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:*

### **C. 18A:61D-1 Immunization record.**

1. Every public and independent institution of higher education in this State shall, as a condition of admission or continued en-



## CHAPTER 158, LAWS OF 1988

1011

rollment, require every graduate and undergraduate student who is 30 years of age or less and is enrolled full-time or part-time in a program or course of study leading to an academic degree, to submit to the institution a valid immunization record which documents the administration of all required immunizations against vaccine-preventable disease, or evidence of immunity from these diseases, in accordance with regulations promulgated by the State Board of Higher Education. The institution shall keep the records on file in such form and manner as prescribed by the State board.

**C. 18A:61D-2 Exemption.**

2. An institution may, in accordance with regulations promulgated by the State board, exempt from the requirements of section 1 of this act any student who attended an elementary or secondary school located in this State.

**C. 18A:61D-3 Conflict with religious beliefs.**

3. A student who submits to the institution of higher education a written statement that immunization conflicts with his religious beliefs shall not be required to submit a list of immunizations to the institution as a condition of admission or continued enrollment.

**C. 18A:61D-4 Contraindication.**

4. A student who submits to the institution a written statement that an immunization is medically contraindicated shall submit a valid immunization record of other administered immunizations in accordance with regulations promulgated by the State board.

**C. 18A:61D-5 Liability not imposed.**

5. The provisions of this act shall not be construed as holding any institution of higher education liable for failure to notify a student of any outbreak of contagious disease, or the threat of any disease outbreak.

**C. 18A:61D-6 Rules, regulations.**

6. The State Board of Higher Education, in consultation with the Department of Health, shall, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), promulgate rules and regulations necessary to effectuate the provisions of this act.

7. This act shall take effect September 1, 1989, except that the Department of Higher Education may immediately take such administrative action as may be necessary for the implementation of this act.

Approved November 16, 1988.

1994 amended 1994, c. 48, § 83. (Effective July 1, 1994)

## CHAPTER 48, LAWS OF 1994

187

### **C.18A:61C-8 Course credit acceptance.**

5. A public institution of higher education shall accept the course credit of a student who successfully participates in the program.

80. Section 6 of P.L.1986, c.193 (C.18A:61C-9) is amended to read as follows:

### **C.18A:61C-9 Rules, regulations.**

6. The commissioner, in consultation with the Commission on Higher Education and the Presidents' Council, and with the approval of the State Board of Education, shall adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary for the operation of the program.

81. Section 1 of P.L.1988, c.158 (C.18A:61D-1) is amended to read as follows:

### **C.18A:61D-1 Immunization record.**

1. Every public and independent institution of higher education in this State shall, as a condition of admission or continued enrollment, require every graduate and undergraduate student who is 30 years of age or less and is enrolled full-time or part-time in a program or course of study leading to an academic degree, to submit to the institution a valid immunization record which documents the administration of all required immunizations against vaccine-preventable disease, or evidence of immunity from these diseases, in accordance with regulations promulgated by the Department of Health. The institution shall keep the records on file in such form and manner as prescribed by the department.

82. Section 2 of P.L.1988, c.158 (C.18A:61D-2) is amended to read as follows:

### **C.18A:61D-2 Exemption.**

2. An institution may, in accordance with regulations promulgated by the department, exempt from the requirements of section 1 of P.L.1988, c.158 (C.18A:61D-1) any student who attended an elementary or secondary school located in this State.

83. Section 4 of P.L.1988, c.158 (C.18A:61D-4) is amended to read as follows:

**C.18A:61D-4 Contraindication.**

4. A student who submits to the institution a written statement that an immunization is medically contraindicated shall submit a valid immunization record of other administered immunizations in accordance with regulations promulgated by the department.

84. Section 6 of P.L.1988, c.158 (C.18A:61D-6) is amended to read as follows:

**C.18A:61D-6 Rules, regulations.**

6. The Commissioner of Health, shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and regulations necessary to effectuate the provisions of this act.

85. Section 1 of P.L.1979, c.31 (C.18A:62-3) is amended to read as follows:

**C.18A:62-3 Enrollment of senior citizens in tuition-free courses in State institutions of higher education.**

1. Each public institution of higher education in New Jersey may permit persons of the age of 65 or more years to enroll without the payment of any tuition charges in regularly scheduled courses; provided that available classroom space permits and that tuition paying students constitute the minimum number required for the course, provided that nothing herein shall preclude public institutions from requiring registration fees for individuals attending courses pursuant to waivers granted under this act.

86. Section 1 of P.L.1979, c.361 (C.18A:62-4) is amended to read as follows:

**C.18A:62-4 Residency requirement.**

1. Persons who have been resident within this State for a period of 12 months prior to enrollment in a public institution of higher education are presumed to be domiciled in this State for tuition purposes. Persons who have been resident within this State for less than 12 months prior to enrollment are presumed to be nondomiciliaries for tuition purposes. Persons presumed to be nondomiciled or persons who are presumed to be domiciled, but whose domiciliary status is challenged by the institution, may demonstrate domicile according to rules and regulations established for that purpose by the Commission on Higher Education. Residence established solely for the purpose of attending a particular educational institution is not domicile for the purposes of this act.

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\*\*\* This section is current through the First Session of the Fifty-First Legislature  
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## CHAPTER 24. HEALTH AND SAFETY

### ARTICLE 5. IMMUNIZATION

[Go to the New Mexico Code Archive Directory](#)

N.M. Stat. Ann. § 24-5-3 (2013)

#### § 24-5-3. Exemption from immunization

A. Any minor child through his parent or guardian may file with the health authority charged with the duty of enforcing the immunization laws:

(1) a certificate of a duly licensed physician stating that the physical condition of the child is such that immunization would seriously endanger the life or health of the child; or

(2) affidavits or written affirmation from an officer of a recognized religious denomination that such child's parents or guardians are bona fide members of a denomination whose religious teaching requires reliance upon prayer or spiritual means alone for healing; or

(3) affidavits or written affirmation from his parent or legal guardian that his religious beliefs, held either individually or jointly with others, do not permit the administration of vaccine or other immunizing agent.

B. Upon filing and approval of such certificate, affidavits or affirmation, the child is exempt from the legal requirement of immunization for a period not to exceed nine months on the basis of any one certificate, affidavits or affirmation.

**HISTORY:** 1953 Comp., § 12-3-4.3, enacted by Laws 1959, ch. 329, § 3; 1979, ch. 42, § 1.

#### **NOTES:** STATUTORY NOTES

CROSS REFERENCES. --Rights, [24-5-13 NMSA](#) 1978.

1953 Comp., § 12-3-4.3, enacted by Laws 1959, ch. 329, § 3 (approved April 2, 1959)

CHAP. 329

LAWS OF 1959

1013

## CHAPTER 329

AN ACT RELATING TO THE POWERS OF THE STATE DEPARTMENT OF PUBLIC HEALTH; PROVIDING FOR THE IMMUNIZATION OF SCHOOL CHILDREN; PROVIDING EXEMPTIONS; PROVIDING PENALTIES; AMENDING SECTION 12-3-1 NEW MEXICO STATUTES ANNOTATED, 1953 COMPILATION (BEING LAWS 1937, CHAPTER 39, SECTION 14); AND REPEALING SECTIONS 12-3-2 THROUGH 12-3-4 NEW MEXICO STATUTES ANNOTATED, 1953 COMPILATION (BEING LAWS 1943, CHAPTER 50, SECTIONS 1 THROUGH 3).

### SENATE EDUCATION COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 37; Approved April 2, 1959

*Be It Enacted by the Legislature of the State of New Mexico:*

Section 1. IMMUNIZATION REGULATIONS.—The state board of public health shall, after consultation with the state board of education, promulgate rules and regulations governing the immunization against diseases deemed to be dangerous to the public health, to be required of children attend public, private or parochial schools in the state. The immunizations required, and the manner and frequency of their administration, shall conform to recognized standard medical practice in the state. The state department of public health shall supervise and secure the enforcement of the required immunization program.

Section 2. UNLAWFUL TO ATTEND SCHOOL UNIMMUNIZED—UNLAWFUL TO REFUSE TO PERMIT IMMUNIZATION.—It is unlawful for any student to attend school for longer than one month unless he has been immunized, as required under the rules and regulations of the state board of public health, and can provide satisfactory evidence of such immunization. Provided that, if within the month, he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is un-

lawful for any parent to refuse or neglect to have his child immunized, as required by this section, unless the child is properly exempted.

Section 3. EXEMPTION FROM IMMUNIZATION.—Any minor child through his parent or guardian may file with the health authority charged with the duty of enforcing the immunization laws the certificate of a duly licensed physician stating that the physical condition of the child is such that immunization would seriously endanger the life or health of the child; or upon affidavits from an officer of a recognized religious denomination that such child's parents or guardians are bona fide members of a denomination whose religious teaching requires reliance upon prayer or spiritual means alone for healing. Upon filing of such certificate, the child is exempt from the legal requirement of immunization for a period not to exceed nine months, on the basis of any one certificate.

Section 4. SUPERINTENDENT — DUTY TO REPORT.—It is the duty of each school superintendent, whether of a public, private or parochial school, to cause to be prepared a record showing the required immunization status of every child enrolled in or attending a school under his jurisdiction. These records must be kept current and available to the public health authorities. The name of any parent or guardian who neglects or refuses to permit his child to be immunized against diseases as required by rules and regulations promulgated hereunder shall be reported by the school superintendent to the state department of public health within thirty-five days after the child is enrolled or begins attending.

Section 5. WHO MAY IMMUNIZE — WHO MUST PAY.—The immunization required may be done by any licensed physician or by someone under his direction. If the parents are unable to pay, the immunization shall be provided by the state department of public health. No public health employee may receive any fee for immunization service if the service is compensated for by the department of public health. Local school boards may contribute toward the cost of materials and supplies for immunizations.

Section 6. PENALTY.—Violation of any provisions

relating to the immunization of school children is a misdemeanor.

Section 7. Section 12-3-1 New Mexico Statutes Annotated, 1953 Compilation (being Laws 1937, Chapter 39, Section 14) is amended to read:

"12-3-1. CONTROL OF NUISANCES AND CONTAGIOUS DISEASES—RIGHT OF ENTRY—FRAUDULENT ACTS.—

A. Any person, firm or corporation violating any state health law, or order, rule or regulation of the state board or the district health officers charged with a duty to enforce any state health law, where the punishment is not otherwise specifically prescribed by law, shall be punished by a fine of not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100) or imprisonment in the county jail for not less than twenty nor more than ninety days, or both such fine and imprisonment in the discretion of the court.

B. Whenever any nuisance, source of filth or cause of sickness is found on private property, the constituted health authorities shall order the owner or occupant, or the person who has caused or committed such nuisance, to remove it at his own expense within twenty-four hours, and, in default thereof, he shall forfeit the sum of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100). Each twenty-four hours' failure to obey such order shall constitute a separate offense.

C. If the owner or occupant does not comply with the order the health authorities may cause the nuisance, source of filth, or cause of sickness to be removed, and the expense incurred shall be paid by the owner, or other person who caused or committed it. The remedy provided by this section and that provided by the immediately preceding sub-section shall be deemed cumulative.

D. Whenever the constituted health authorities think it necessary for the preservation of the lives or the health of any of the inhabitants of the state to enter any building, car, or train of cars, for the purpose of examining, abating, destroying, removing or preventing any nuisance, sources of filth, or cause of sickness, and are re-

fused entry, they may file a complaint before any justice of the peace or judge of the district court, stating the facts of the case so far as they have knowledge of them. The justice of the peace or judge shall thereupon issue a warrant directed to the sheriff, or any constable of the county in which the entry is refused, commanding him to go, between the hours of sunrise and sunset, to the place where the nuisance, source of filth, or cause of sickness complained of is and destroy, remove or prevent the same, if deemed necessary by the health authority. Some constituted health authority shall always attend and direct the sheriff or constable in the service of such warrant.

E. Whenever any physician or other person knows that any person is sick with any disease dangerous to the public health, he shall give notice at once to the district health officer, his authorized agent, or to the justice of the peace in the precinct in which such disease or nuisance exists. Whenever notice is given to any justice of the peace it shall be his duty to notify the district health officer or his authorized agent at once. Any physician, justice of the peace or other person failing, neglecting or refusing to perform any duty imposed upon him by this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100).

F. Any health authority, upon receiving notice that any person is infected with disease dangerous to the public health, shall secure his voluntary isolation or file a complaint with any justice of the peace or judge of the district court having jurisdiction over the infected person. The complaint shall state the facts as related, under oath, by the health authority or the facts according to his information and belief. Any justice of the peace or judge of the district court having jurisdiction may upon proper complaint issue a warrant under his hand directed to the sheriff or any constable of his county, requiring the sheriff or constable, under the direction of the complaining health authority, to remove and isolate the person complained of, and to take possession of convenient houses or lodgings and to produce other necessities for the accommodation and relief of such person and the safety of the public health."



Section 8. REPEAL.—Sections 12-3-2 through 12-3-4 New Mexico Statutes Annotated, 1953 Compilation (being Laws 1943, Chapter 50, Sections 1 through 3) are repealed.

## CHAPTER 330

AN ACT RELATING TO THE SCHOOL YEAR; PROVIDING FOR THE NUMBER OF SCHOOL DAYS IN A YEAR; AMENDING SECTION 73-7-40 NEW MEXICO STATUTES ANNOTATED, 1953 COMPILATION (BEING LAWS 1941, CHAPTER 125, SECTION 8).

SENATE BILL NO. 38; Approved April 2, 1959

*Be It Enacted by the Legislature of the State of New Mexico:*

Section 1. Section 73-7-40 New Mexico Statutes Annotated, 1953 Compilation (being Laws 1941, Chapter 125, Section 8) is amended to read:

"73-7-40. DETERMINATION OF AVERAGE DAILY ATTENDANCE—REPORTS—COMPUTATION FOR DISTRIBUTION OF STATE PUBLIC SCHOOL EQUALIZATION FUND.—"Average daily attendance", as used herein, and for all school purposes, shall be the total number of days which all pupils enrolled in any public school of any school district attended school for the entire school year, divided by the total number of days the school was in session for the entire school year.

In computing the average daily attendance in any school, school district or county, the following factors shall be used:

A. Only those pupils who will be six years of age, on or before January 1, after the beginning of the school year, shall be taken into consideration. Post graduates shall not be included.

B. Those pupils who are regularly enrolled in one-half or more of the subjects prescribed by the state board of education for grades one through twelve.

C. The number of days the pupil was actually in attendance in the school based on one-half day units. A

1979 1979, ch. 42, § 1. (Approved March 15, 1979)

CHAP. 42

LAWS OF 1979

115

## CHAPTER 42

### AN ACT

RELATING TO IMMUNIZATION; AMENDING SECTION 24-5-3 NMSA 1978 (BEING LAWS 1959, CHAPTER 329, SECTION 3).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-5-3 NMSA 1978 (being Laws 1959, Chapter 329, Section 3) is amended to read:

"24-5-3. EXEMPTION FROM IMMUNIZATION.--

A. Any minor child through his parent or guardian may file with the health authority charged with the duty of enforcing the immunization laws:

(1) a certificate of a duly licensed physician stating that the physical condition of the child is such that immunization would seriously endanger the life or health of the child; or

(2) affidavits or written affirmation from an officer of a recognized religious denomination that such child's parents or guardians are bona fide members of a denomination whose religious teaching requires reliance upon prayer or spiritual means alone for healing; or

(3) affidavits or written affirmation from his parent or legal guardian that his religious beliefs, held either individually or jointly with others, do not permit the administration of vaccine or other immunizing agent.

B. Upon filing and approval of such certificate, affidavits or affirmation, the child is exempt from the legal requirement of

HOUSE BILL 211

Approved March 15, 1979



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\*\*\* This section is current through 2014 released chapters 1-3 \*\*\*

PUBLIC HEALTH LAW  
ARTICLE 21. CONTROL OF ACUTE COMMUNICABLE DISEASES  
TITLE VI. POLIOMYELITIS AND OTHER DISEASES

[Go to the New York Code Archive Directory](#)

NY CLS Pub Health § 2164 (2014)

**§ 2164.** Definitions; immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B.

1. As used in this section, unless the context requires otherwise:

a. The term "school" means and includes any public, private or parochial child caring center, day nursery, day care agency, nursery school, kindergarten, elementary, intermediate or secondary school.

b. The term "child" shall mean and include any person between the ages of two months and eighteen years.

c. The term "person in parental relation to a child" shall mean and include his father or mother, by birth or adoption, his legally appointed guardian, or his custodian. A person shall be regarded as the custodian of a child if he has assumed the charge and care of the child because the parents or legally appointed guardian of the minor have died, are imprisoned, are mentally ill, or have been committed to an institution, or because they have abandoned or deserted such child or are living outside the state or their whereabouts are

unknown, or have designated the person pursuant to title fifteen-A of article five of the general obligations law as a person in parental relation to the child.

d. The term "health practitioner" shall mean any person authorized by law to administer an immunization.

2. [As amended by L 2006, ch 189 and 506]

a. Every person in parental relation to a child in this state shall have administered to such child an adequate dose or doses of an immunizing agent against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B, which meets the standards approved by the United States public health service for such biological products, and which is approved by the department under such conditions as may be specified by the public health council.

b. Every person in parental relation to a child in this state born on or after January first, nineteen hundred ninety-four and entering sixth grade or a comparable age level special education program with an unassigned grade on or after September first, two thousand seven, shall have administered to such child a booster immunization containing diphtheria and tetanus toxoids, and an acellular pertussis vaccine, which meets the standards approved by the United States public health service for such biological products, and which is approved by the department under such conditions as may be specified by the public health council.

2-a. [Repealed]

3. The person in parental relation to any such child who has not previously received such immunization shall present the child to a health practitioner and request such health practitioner to administer the necessary immunization against poliomyelitis, mumps, measles, diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella, pertussis, tetanus, pneumococcal disease, and hepatitis B as provided in subdivision two of this section.

4. If any person in parental relation to such child is unable to pay for the services of a private health practitioner, such person shall present such child to the health officer of the county in which the child resides, who shall then administer the immunizing agent without charge.

5. The health practitioner who administers such immunizing agent against poliomyelitis, mumps, measles, diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella, pertussis, tetanus, pneumococcal disease, and hepatitis B to any such child shall give a certificate of such immunization to the person in parental relation to such child.

6. In the event that a person in parental relation to a child makes application for admission of such child to a school or has a child attending school and there exists no certificate or other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where applicable, *Haemophilus influenzae* type b (Hib) and pneumococcal disease, the principal, teacher, owner or person in charge of the school shall inform such person of the necessity to have the child immunized, that such immunization may be administered by any health practitioner, or that the child may be immunized without charge by the health officer in the county where the child resides, if such person executes a consent therefor. In the event that such person does not wish to select a health practitioner to administer the immunization, he or she shall be provided with a form which shall give notice that as a prerequisite to processing the application for admission to, or for continued attendance at, the school such person shall state a valid reason for withholding consent or consent shall be given for immunization to be administered by a health officer in the public employ, or by a school physician or nurse. The form shall provide for the execution of a consent by such person and it shall also state that such person need not execute such consent if subdivision eight or nine of this section apply to such child.

7. (a) No principal, teacher, owner or person in charge of a school shall permit any child to be admitted to such school, or to attend such school, in excess of fourteen days, without the certificate provided for in subdivision five of this section or some other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where applicable, *Haemophilus influenzae* type b (Hib) and pneumococcal disease; provided, however, such fourteen day period may be extended to not more than thirty days for an individual student by the appropriate principal, teacher, owner or other person in charge where such student is transferring from out-of-state or from another country and can show a good faith effort to get the necessary certification or other evidence of immunization.

(b) A parent, a guardian or any other person in parental relationship to a child denied school entrance or attendance may appeal by petition to the commissioner of education in accordance with the provisions of section three hundred ten of the education law.

8. If any physician licensed to practice medicine in this state certifies that such immunization may be detrimental to a child's health, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to the child's health.

8-a. Whenever a child has been refused admission to, or continued attendance at, a school as provided for in subdivision seven of this section because there exists no certificate provided for in subdivision five of this section or other acceptable evidence of the child's immunization against poliomyelitis, mumps,

measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where applicable, *Haemophilus influenzae* type b (Hib) and pneumococcal disease, the principal, teacher, owner or person in charge of the school shall:

a. forward a report of such exclusion and the name and address of such child to the local health authority and to the person in parental relation to the child together with a notification of the responsibility of such person under subdivision two of this section and a form of consent as prescribed by regulation of the commissioner, and

b. provide, with the cooperation of the appropriate local health authority, for a time and place at which an immunizing agent or agents shall be administered, as required by subdivision two of this section, to a child for whom a consent has been obtained. Upon failure of a local health authority to cooperate in arranging for a time and place at which an immunizing agent or agents shall be administered as required by subdivision two of this section, the commissioner shall arrange for such administration and may recover the cost thereof from the amount of state aid to which the local health authority would otherwise be entitled.

9. This section shall not apply to children whose parent, parents, or guardian hold genuine and sincere religious beliefs which are contrary to the practices herein required, and no certificate shall be required as a prerequisite to such children being admitted or received into school or attending school.

10. The commissioner may adopt and amend rules and regulations to effectuate the provisions and purposes of this section.

11. Every school shall annually provide the commissioner, on forms provided by the commissioner, a summary regarding compliance with the provisions of this section.

#### **HISTORY:**

Add, L 1966, ch 994, § 1, eff Jan 1, 1967.

Section heading, amd, L 1968, ch 1094, § 4, L 1970, ch 265, § 1, L 1971, ch 974, § 1, L 1972, ch 145, § 1, L 1976, ch 926, § 1, L 1994, ch 521, § 1 (see 1994 note below), L 1999, ch 416, § 1, eff Aug 31, 1999 (see 1999 note below).

Section heading, amd, L 2004, ch 207, § 1, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 1, par b, amd, L 1968, ch 1094, § 4, L 1979, ch 443, § 2, eff July 1, 1980.

Sub 1, par c, amd, L 1978, ch 550, § 37, eff July 24, 1978.

Sub 1, par c, amd, L 2005, ch 119, § 3, eff June 30, 2005.

Sub 1, par d, add, L 1989, ch 538, § 2, eff Jan 1, 1990.

Sub 2, amd, L 1968, ch 1094, § 4, L 1970, ch 265, § 1, L 1971, ch 974, § 1, L 1972, ch 145, § 1, L 1976, ch 926, § 2; redesignated sub 2, par (a) and amd, L 1989, ch 538, § 3; redesignated sub 2 and amd, L 1990, ch 634, § 1; amd, L 1994, ch 521, § 2 (see 1994 note below), L 1999, ch 416, § 1, eff Aug 31, 1999 (see 1999 note below).

Sub 2, par (a), redesignated sub 2, L 1990, ch 634, § 1, eff July 18, 1990.

Sub 2, par (b), add, L 1989, ch 538, § 3; deleted, L 1990, ch 634, § 1, eff July 18, 1990.

Sub 2, par a, formerly entire sub 2, amd, L 2004, ch 207, § 1, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below); so designated sub 2, par a, L 2006, ch 506, § 1, eff Sept 1, 2007.

Sub 2, par b, add, L 2006, ch 506, § 1, eff Sept 1, 2007.

Sub 2-a, add, L 2004, ch 157, § 1, eff Jan 1, 2005; repealed, L 2004, ch 430, § 1, eff Jan 1, 2005.

Sub 3, amd, L 1968, ch 1094, § 4, L 1970, ch 265, § 1, L 1971, ch 974, § 1, L 1972, ch 145, § 1, L 1976, ch 926, § 2, L 1989, ch 538, § 3, L 1994, ch 521, § 3 (see 1994 note below), L 1999, ch 416, § 1, eff Aug 31, 1999 (see 1999 note below).

Sub 3, amd, L 2004, ch 207, § 1, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 4, amd, L 1989, ch 538, § 3, eff Jan 1, 1990.

Sub 5, amd, L 1968, ch 1094, § 5, L 1970, ch 265, § 1, L 1971, ch 974, § 1, L 1972, ch 145, § 1, L 1976, ch 926, § 2, L 1989, ch 538, § 3, L 1994, ch 521, § 4 (see 1994 note below), L 1999, ch 416, § 1, eff Aug 31, 1999 (see 1999 note below).

Sub 5, amd, L 2004, ch 207, § 1, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 6, add, L 1975, ch 633, § 1; amd, L 1976, ch 926, § 2, L 1979, ch 443, § 2, L 1989, ch 538, § 3, L 1994, ch 521, § 5 (see 1994 note below), L 1999, ch 416, § 1, eff Aug 31, 1999 (see 1999 note below).

Former sub 6, amd, L 1968, ch 1094, § 4, L 1970, ch 265, § 1; redesignated sub 7, L 1975, ch 633, § 2, eff Aug 5, 1975.

Sub 6, amd, L 2004, ch 207, § 1, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 7, formerly sub 6, amd, L 1968, ch 1094, § 4, L 1970, ch 265, § 1, L 1971, ch 974, § 1, L 1972, ch 145, § 1; so designated sub 7, L 1975, ch 633, § 2; amd, L 1976, ch 926, § 2, eff March 1, 1977.

**Former sub 7, redesignated sub 8, L 1975, ch 633, § 2, eff Aug 5, 1975.**

Sub 7, par (a), formerly entire sub 7, so designated sub 7, par (a) and amd, L 1979, ch 443, § 2; amd, L 1981, ch 116, § 1, L 1989, ch 538, § 3, L 1994, ch 521,



§ 6 (see 1994 note below), L 1999, ch 416, § 2, eff Aug 31, 1999 (see 1999 note below).

Sub 7, par (a), amd, L 2004, ch 207, § 2, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 7, par (b), add, L 1979, ch 443, § 2, eff July 1, 1980.

Sub 8, formerly sub 7, so designated sub 8, L 1975, ch 633, § 2, eff Aug 5, 1975.

Former sub 8, redesignated sub 9, L 1975, ch 633, § 2, eff Aug 5, 1975.

Sub 8-a, add, L 1979, ch 443, § 3, eff July 1, 1980.

Sub 8-a, opening par, amd, L 1989, ch 538, § 3, L 1994, ch 521, § 7 (see 1994 note below), L 1999, ch 416, § 3, eff Aug 31, 1999 (see 1999 note below).

Sub 8-a, opening par, amd, L 2004, ch 207, § 3, eff July 20, 2004 (see 2004 note below), L 2006, ch 189, § 1, eff July 26, 2006 (see 2006 note below).

Sub 9, formerly sub 8, so designated sub 9, L 1975, ch 633, § 2; amd, L 1989, ch 405, § 2 (see 1989 note below), L 1989, ch 538, § 3, eff Jan 1, 1990.

Former sub 9, redesignated sub 10, L 1975, ch 633, § 2, eff Aug 5, 1975.

Sub 10, formerly sub 9, add, L 1968, ch 1094, § 4; so designated sub 10, L 1975, ch 633, § 2, eff Aug 5, 1975.

Sub 11, add, L 1994, ch 521, § 8, eff July 26, 1994 (see 1994 note below).

1966 Add, L 1966, ch 994, § 1, (eff Jan 1, 1967)

994]

LAWS OF NEW YORK, 1966

3331

*(b) with respect to lands granted to the United States of America by any city, town or village or body politic or corporate, shall revert to such city, town or village or body politic or corporate.*

§ 2. This act shall take effect immediately.

## CHAPTER 994

AN ACT to amend the public health law, in relation to requiring the vaccination of school children against poliomyelitis

Became a law August 3, 1966, with the approval of the Governor. Passed by a majority vote, three-fifths being present

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Statement of legislative intent, findings and purposes. The legislature hereby finds and declares:

1. One of the truly great medical advances of this generation has been the development of proved methods of reducing the incidence of poliomyelitis, the once greatcrippler. Public health statistics show clearly that immunization is at least ninety per cent effective in preventing paralysis. Immunization has been proven absolutely safe and there is no evidence or indication that any one has contracted paralytic polio from an immunization dose.

2. Out of apathy or ignorance, tens of millions of Americans are still not immunized against paralytic polio. Many millions of the unimmunized are pre-school children under the age of five years and nearly one-half of all paralytic cases in recent years have occurred in this group. Studies indicate that the majority of these unprotected persons are in the lower socio-economic group who reside in congested urban areas and who are generally apathetic towards immunization.

3. The typical polio cripple of the post-vaccine period is a child less than five years of age in an underprivileged family. It is unlikely that the family will ever be able to pay for the child's medical care and rehabilitation or that the child will be able to support himself when he grows up. Therefore these polio victims will cost thousands of tax and charity dollars in the years ahead.

4. Consequently, the large numbers of pre-school children who are unprotected against paralytic polio must be immunized and protected in their own self-interest as well as for the health and economic well-being of the community.

5. The legislature therefore finds and declares that pre-school children must be adequately immunized against poliomyelitis before being permitted to attend a public, private or parochial school in this state. The state should be prepared to pay for the cost of pro-

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

viding and administering such immunizing dose or doses of prophylactic agent against poliomyelitis which meets the standards approved by the United States public health service for such biological products and which is approved by the state department of health.

§ 2. The public health law is hereby amended by inserting therein, at the end of title six of article twenty-one thereof, a new section, to be section twenty-one hundred sixty-four, to read as follows:

§ 2164. *Definitions; immunization against poliomyelitis. 1. As used in this section, unless the context requires otherwise:*

*a. The term "school" means and includes any public, private or parochial child caring center, day nursery, day care agency, nursery school, kindergarten, elementary, intermediate or secondary school.*

*b. The term "child" shall mean and include any child between the ages of two months and six years and every child entering or attending school.*

*c. The term "person in parental relation to a child" shall mean and include his father or mother, by birth or adoption, his legally appointed guardian, or his custodian. A person shall be regarded as the custodian of a child if he has assumed the charge and care of the child because the parents or legally appointed guardian of the minor have died, are imprisoned, are insane, or have been committed to an institution, or because they have abandoned or deserted such child or are living outside the state or their whereabouts are unknown.*

*2. Every person in parental relation to a child in this state shall have administered to such child an adequate dose or doses of an immunizing agent against poliomyelitis which meets the standards approved by the United States public health service for such biological products, and which is approved by the state department of health.*

*3. The person in parental relation to any such child who has not previously received such immunization shall present the child to a physician licensed to practice medicine in this state and request such physician to administer the necessary immunization against poliomyelitis as provided in subdivision one of this section.*

*4. If any person in parental relation to such child is unable to pay for the services of a private physician, such person shall present such child to the county physician of the county in which the child resides, or, if there be no such officer, to the public officer exercising corresponding functions, who shall then administer the immunizing agent without charge.*

*5. The physician who administers such immunizing agent against poliomyelitis to any such child shall submit a certificate of such immunization to the local health officer and shall give a copy of the same to the person in parental relation to such child.*

6. No principal, teacher, owner or person in charge of a school shall permit any child to attend such school without the certificate provided for in subdivision five of this section or some other acceptable evidence of the child's immunization against poliomyelitis.

7. If any physician licensed to practice medicine in this state certifies that such immunization may be detrimental to a child's health, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to the child's health.

8. This section shall not apply to children whose parent, parents, or guardian are bona fide members of a recognized religious organization whose teachings are contrary to the practices herein required, and no certificate shall be required as a prerequisite to such children being admitted or received into school or attending school.

§ 3. This act shall take effect January first, nineteen hundred sixty-seven.

## CHAPTER 995

AN ACT to amend the public housing law, in relation to creating and establishing the town of Fallsburg housing authority, and providing for its rights, powers, duties and limitations

Became a law August 3, 1966, with the approval of the Governor. Passed by a majority vote, three-fifths being present

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The public housing law is hereby amended by inserting in article thirteen thereof a new title, to be title eighty-nine, to read as follows:

### TITLE 89

#### TOWN OF FALLSBURG HOUSING AUTHORITY

*Section 492. Town of Fallsburg housing authority.*

§ 492. *Town of Fallsburg housing authority. A municipal housing authority, to be known as the town of Fallsburg housing authority, is hereby created and established for the town of Fallsburg in the county of Sullivan, for the accomplishment of any or all of the purposes specified in article eighteen of the constitution of the state of New York. It shall constitute a body corporate and politic, be perpetual in duration and consist of five members. It shall have the powers and duties now or hereafter conferred by this chapter upon municipal housing authorities. It shall be organized in the manner prescribed by and subject to the provisions of this chapter, and the authority, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of this chapter.*

§ 2. This act shall take effect immediately.

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

1975, L 1975, ch 633, § 2, eff Aug 5, 1975.

## 1975 REGULAR SESSION

## Ch. 633

one hundred eighty-five, ~~one hundred eighty-five-a~~, one hundred eighty-six, or one hundred eighty-seven of this article shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed ~~five hundred one thousand~~ dollars, or imprisonment for not more than one year, or both, by any court of competent jurisdiction. The violation of any other provision of this article shall be punishable by a fine not to exceed ~~twenty-five~~ one hundred dollars or imprisonment for not more than thirty days. Criminal proceedings based upon violations of these sections shall be instituted by the commissioner and may be instituted by any persons aggrieved by such violations.

§ 21. The industrial commissioner shall appoint an ad hoc committee to study and report to the industrial commissioner on the advisability of revising the provisions in article eleven of the general business law relating to the recruitment of domestic and household employees from outside the Continental United States. The committee shall evaluate the adequacies of the regulation and supervision of the present practices and procedures involved in such recruitment and determine if the same are consistent with and in furtherance of the interests of employers, employees, employment agencies, and the public. The committee shall consist of three members representative of the interests of the employment agency industry, three members representing the interests of the public and employees, and one additional public member who shall serve as chairman. The committee shall submit its report and recommendations to the industrial commissioner no later than October first, nineteen hundred seventy-six, and shall terminate on such date unless continued by the industrial commissioner. The members of the committee shall receive no compensation for their services but shall receive in lieu of expenses incurred in the performance of their duties the amount appropriated therefor.

§ 22. This act shall take effect on the first day of October next succeeding the date on which it shall have become a law.

*Note.*—The substance of Section 173 and subdivision 1 of Section 181 of the General Business Law repealed by this bill is incorporated in this bill with certain modifications.

## Public Health—School Children—Immunization

## CHAPTER 633

An Act to amend the public health law, in relation to the immunization of school children.

Approved and effective Aug. 5, 1975.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Subdivisions six, seven, eight and nine of section twenty-one hundred sixty-four of the public health law, are hereby renumbered to be subdivisions seven, eight, nine and ten, respectively.

§ 2. Section twenty-one hundred sixty-four of such law is hereby amended by adding thereto a new subdivision, to be subdivision six, to read as follows:

6. In the event that a person in parental relation to a child makes application for admission of such child to a school and there exists no certificate or other acceptable evidence of the child's immunization against poliomyelitis, measles, diphtheria and rubella, the principal, teach-

deletions by strikeouts

963

**Ch. 633**      **LAWS OF NEW YORK 1975**

er, owner or person in charge of the school shall inform such person of the necessity to have the child immunized, that such immunization may be administered by any physician licensed to practice medicine in this state, or that the child may be immunized without charge by the county physician where the child resides, or the public officer exercising corresponding functions if such person executes a consent therefor. In the event that such person does not wish to select a physician to administer the immunization, he shall be provided with a form which shall give notice that as a prerequisite to processing the application for admission to the school such person shall state a valid reason for withholding consent or consent shall be given for immunization to be administered by a health officer in the public employ, or by a school physician or nurse. The form shall provide for the execution of a consent by such person and it shall also state that such person need not execute such consent if subdivisions eight or nine of this section apply to such child.

§ 3. This act shall take effect immediately.

1989      amd, L 1989, ch 405, § 2

## CHAPTER 405

AN ACT to amend the public health law, in relation to required immunizations for certain post-secondary students

Became a law July 16, 1989, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The public health law is amended by adding a new section 2165 to read as follows:

§ 2165. *Immunization of certain post-secondary students.* 1. As used in this section, unless the context requires otherwise:

a. The term "institution" means a college as defined in section two of the education law.

b. The term "student" means any person born on or after January first, nineteen hundred fifty-seven, who is registered to attend or attends classes at an institution, whether full-time or part-time. "Part-time student" shall mean a student who is part-time as defined in section six hundred sixty-six of the education law.

c. The term "health practitioner" means any person authorized by law to administer an immunization.

d. The term "immunization" means an adequate dose or doses of an immunizing agent against measles, mumps and rubella which meets the standards approved by the United States public health service for such biological products, and which is approved by the state department of health under such conditions as may be specified by the public health council.

2. Each student at an institution shall provide to the institution a certificate from a health practitioner or other acceptable evidence of such student's immunization, unless such student presents a certificate under subdivision eight of this section or is exempt under subdivision nine of this section. Upon compliance, no student shall be denied attendance at an institution because of the requirements of this section.

3. A student who has not complied with subdivision two of this section shall present himself or herself to a health practitioner and request such practitioner to administer such immunization.

4. If any person is unable to pay for the services of a private health practitioner, such person shall present himself or herself to the health officer of the county in which such person resides, or the county in which the institution is located who shall then administer the immunization without charge.

5. The health practitioner who administers such immunization to any such person shall give a certificate of such immunization to such person.

6. In the event that a student registers at an institution and has not complied with subdivision two of this section, the institution shall inform such student of the necessity to be immunized, that such immunization may be administered by any health practitioner, or that the student may be immunized without charge by the health officer in the county where the student resides or in which the institution is located. In the event that such student does not comply with this section, he or she shall be given notice that attendance at the institution requires immunization unless a valid reason is provided by such student pursuant to subdivision eight or nine of this section.

7. No institution shall permit any student to attend such institution in excess of thirty days without complying with subdivision two of this section. However, such thirty day period may be extended to not more than forty-five days for a student where such student is transferring from out-of-state or from another country and can show a good faith effort to comply with subdivision two of this section.

8. If any licensed physician or nurse practitioner certifies that such immunization may be detrimental to the person's health or is otherwise medically contraindicated, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to such person's health or is no longer medically contraindicated.

9. This section shall not apply to a person who holds genuine and sincere religious beliefs which are contrary to the practices herein

required, and no certificate shall be required as a prerequisite to such person being admitted or received into or attending an institution.

10. The institution shall provide annually to the commissioner, on forms provided by the commissioner, a summary regarding compliance with this section.

11. The commissioner may adopt and amend rules and regulations to effectuate the provisions and purposes of this section.

12. The commissioner shall report annually to the governor and the legislature concerning the immunization of all students pursuant to this section.

§ 2. Subdivision 9 of section 2164 of the public health law, as added by chapter 994 of the laws of 1966 and as renumbered by chapter 633 of the laws of 1975, is amended to read as follows:

9. This section shall not apply to children whose parent, parents, or guardian [are bona fide members of a recognized religious organization whose teachings] hold genuine and sincere religious beliefs which are contrary to the practices herein required, and no certificate shall be required as a [prerequisite] prerequisite to such children being admitted or received into school or attending school.

§ 3. This act shall take effect August 1, 1990, provided, however, that the commissioner of health shall promulgate rules and regulations prior to such effective date necessary to implement the provisions of this act.

## CHAPTER 406

AN ACT to amend the public health law, in relation to the application of required immunizations for certain post-secondary students

Became a law July 16, 1989, with the approval of the Governor.  
Passed by a majority vote, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Subdivision 7 of section 2165 of the public health law, as added by a chapter of the laws of 1989, amending the public health law, relating to required immunizations for certain post-secondary students, as proposed in legislative bill numbers A. 4123-A and S. 2230-C, is amended to read as follows:

7. No institution shall permit any student to attend such institution in excess of thirty days without complying with subdivision two of this section. However, such thirty day period may be extended to not more than forty-five days for a student where such student is [transferring] from out-of-state or from another country and can show a good faith effort to comply with subdivision two of this section.

§ 2. Section 2165 of the public health law is amended by adding a new subdivision 13 to read as follows:

13. *a. Prior to August first, nineteen hundred ninety-one, this section shall not apply to (i) part-time students or (ii) any student who attended the institution he or she is attending prior to August first, nineteen hundred eighty-nine.*

*b. Prior to August first, nineteen hundred ninety-one, the thirty and forty-five day periods referred to in subdivision seven of this section shall be deemed to be sixty and ninety days, respectively.*

§ 3. This act shall take effect on the same date as a chapter of the laws of 1989, amending the public health law, relating to required immunizations for certain post-secondary students, as proposed in legislative bill numbers A. 4123-A and S. 2230-C takes effect.



1989 L 1989, ch 538, § 3, eff Jan 1, 1990.

538]

LAWS OF NEW YORK, 1989

2785

division one of section thirteen hundred ninety-nine-b of the public health law shall revert to text of such subdivisions as they existed immediately prior to the effective date of this act; section three shall expire on the same date as section thirteen hundred ninety-nine-i of the public health law; section four shall expire on December thirty-first, nineteen hundred eighty-five; and all provisions of law designated to expire under this section, except those provisions continued in sections one and two, shall be deemed to be repealed on such respective dates of expiration.

§ 2. This act shall take effect immediately.

## CHAPTER 538

AN ACT to amend the public health law and the education law, in relation to immunization of school children

Became a law July 16, 1989, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Subdivisions 1 and 2 of section 613 of the public health law, as added by chapter 901 of the laws of 1986, are amended to read as follows:

1. The commissioner shall develop and supervise the execution of a program of immunization, surveillance and testing, to raise to the highest reasonable level the immunity of the children of the state against communicable diseases including, but not limited to: poliomyelitis, measles, mumps, rubella, *haemophilus influenzae type b (Hib)*, diphtheria\*, pertussis, and tetanus. The commissioner shall encourage the municipalities in the state to develop and shall assist them in the development and the execution of local programs of inoculation to raise the immunity of the children of each municipality to the highest reasonable level. Such programs shall include provision of vaccine, surveillance of vaccine effectiveness by means of laboratory tests, serological testing of individuals and educational efforts to inform physicians and parents of the facts relative to these diseases and inoculation to prevent their occurrence. The commissioner shall invite and encourage the active assistance and cooperation in such education activities of: the medical societies, organizations of other licensed health personnel, hospitals, corporations subject to article forty-three of the insurance law, trade unions, trade associations, parents and teachers and their associations, the media of mass communication, and such other voluntary groups and organizations of citizens as he shall deem appropriate. The public health council, the department of education, the department of social services, and the department of mental hygiene shall provide the commissioner with such assistance in carrying out the program as he shall request. All other state agencies shall also render such assistance as the commissioner may reasonably require for this program.

2. The commissioner shall set such standards as he shall deem necessary for the proper, safe, and efficient administration of the program. He shall direct an annual survey to determine the immunization level of children entering [and attending] school, and shall conduct annually an audit of such survey and an audit of the immunization level of children attending school. State aid provided by this article shall be reduced by ten percent, provided however that state aid for essential public health activities shall not be reduced, unless a municipality has submitted, in cooperation with local school districts, a plan within ninety days after the commissioner shall have certified to such municipality the results of his survey of the immunization level of children entering schools in such local school districts. Such plan shall be submitted for the next

\* So in original. (Word misspelled.)

ensuing school year and a subsequent plan shall be submitted annually thereafter for assuring that immunizing agents are administered to pre-school children within a reasonable time prior to but, in any event, no later than their entrance into school, and to students generally, as required pursuant to section twenty-one hundred sixty-four of this chapter. Such plan shall include the manner in which immunization activities are coordinated among the local health authority and the school districts. Such reduction in state aid and the requirement that a municipality submit an immunization plan shall not be applicable to any municipality where ninety percent or more of its children entering school are immunized. The determination of the percentage of immunization shall be made by the commissioner based upon his audit of immunization surveys.

§ 2. Subdivision 1 of section 2164 of the public health law is amended by adding a new paragraph d to read as follows:

d. The term "health practitioner" shall mean any person authorized by law to administer an immunization.

§ 3. Subdivisions 2, 3, 4, 5, 6, paragraph (a) of subdivision 7 and subdivisions 8-a and 9 of section 2164 of the public health law, as added by chapter 994 of the law of 1966, subdivisions 2, 3 and 5 as amended by chapter 926 of the laws of 1976, subdivision 6 as amended and subdivision 8-a as added by chapter 443 of the laws of 1979, paragraph (a) of subdivision 7 as amended by chapter 116 of the laws of 1981 and subdivision 9 as renumbered by chapter 633 of the laws of 1975, are amended to read as follows:

2. (a) Every person in parental relation to a child in this state shall have administered to such child an adequate dose or doses of an immunizing agent against poliomyelitis, mumps, measles, [diphtheria] diphtheria and rubella which meets the standards approved by the United States public health service for such biological products, and which is approved by the state department of health under such conditions as may be specified by the public health council.

(b) In addition to the requirements in paragraph (a) of this subdivision, every person in parental relation to a child between the ages of eighteen months and five years shall have administered to such child an adequate dose or doses of an immunizing agent against haemophilus influenzae type b (Hib), which meets the standards approved by the United States public health service for biological products, and which is approved by the state department of health under such conditions as may be specified by the public health council.

3. The person in parental relation to any such child who has not previously received such immunization shall present the child to a [physician licensed to practice medicine in this state] health practitioner and request such [physician] health practitioner to administer the necessary immunization against poliomyelitis, mumps, measles, [diphtheria] diphtheria, haemophilus influenzae type b (Hib) and rubella as provided in subdivision [one] two of this section.

4. If any person in parental relation to such child is unable to pay for the services of a private [physician] health practitioner, such person shall present such child to the [county physician] health officer of the county in which the child resides, [or, if there be no such officer, to the public officer exercising corresponding functions,] who shall then administer the immunizing agent without charge.

5. The [physician] health practitioner who administers such immunizing agent against poliomyelitis, mumps, measles, [diphtheria] diphtheria, haemophilus influenzae type b (Hib) and rubella to any such child shall give a certificate of such immunization to the person in parental relation to such child.

6. In the event that a person in parental relation to a child makes application for admission of such child to a school or has a child attending school and there exists no certificate or other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria [and], rubella, and, where applicable, haemophilus influenzae type b (Hib), the principal, teacher, owner or person in charge of the school shall inform such person of the necessity to have the child immunized, that such immunization may be administered by any [physician licensed to practice medicine in this state,] health practitioner, or that the child may be immunized without charge by the [county physician] health officer in the county where the child resides, [or the public officer exercising corresponding functions] if such person executes a consent therefor. In the event that such person does not wish to select a [physician] health practitioner to administer the immunization, he shall

be provided with a form which shall give notice that as a prerequisite to processing the application for admission to, or for continued attendance at, the school such person shall state a valid reason for withholding consent or consent shall be given for immunization to be administered by a health officer in the public employ, or by a school physician or nurse. The form shall provide for the execution of a consent by such person and it shall also state that such person need not execute such consent if [subdivisions] *subdivision* eight or nine of this section apply to such child. [Prior to the first day of July, nineteen hundred eighty-one no principal, teacher, owner or person in charge of such school shall be required to inform or give notice to such person in parental relation to a child that an immunization against mumps is necessary if such child is enrolled in school prior to the first day of March, nineteen hundred seventy-seven.]

(a) No principal, teacher, owner or person in charge of a school shall permit any child to be admitted to such school, or to attend such school, in excess of fourteen days, without the certificate provided for in subdivision five of this section or some other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria [and], rubella, and, where applicable, *haemophilus influenzae type b (Hib)*; provided, however, such fourteen day period may be extended to not more than thirty days for an individual student by the appropriate principal, teacher, owner or other person in charge where such student is transferring from out-of-state or from another country and can show a good faith effort to get the necessary certification or other evidence of immunization. [Prior to the first day of July, nineteen hundred eighty-one, no child shall be denied attendance at such school if such child does not have an immunization against mumps and enrolled in school prior to the first day of March, nineteen hundred seventy-seven.]

8-a. Whenever a child has been refused admission to, or continued attendance at, a school as provided for in subdivision seven of this section because there exists no certificate provided for in subdivision five of this section or other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria [and], rubella and, where applicable, *haemophilus influenzae type b (Hib)*, the principal, teacher, owner or person in charge of the school shall:

a. forward a report of such exclusion and the name and address of such child to the local health authority and to the person in parental relation to the child together with a notification of the responsibility of such person under subdivision two of this section and a form of consent as prescribed by regulation of the commissioner, and

b. provide, with the cooperation of the appropriate local health authority, for a time and place at which an immunizing agent or agents shall be administered, as required by subdivision two of this section, to a child for whom a consent has been obtained. Upon failure of a local health authority to cooperate in arranging for a time and place at which an immunizing agent or agents shall be administered as required by subdivision two of this section, the commissioner shall arrange for such administration and may recover the cost thereof from the amount of state aid to which the local health authority would otherwise be entitled.

9. This section shall not apply to children whose parent, parents, or guardian [are bona fide members of a recognized religious organization whose teachings] *hold genuine and sincere religious beliefs which are* contrary to the practices herein required, and no certificate shall be required as a [prerequisite] *prerequisite* to such children being admitted or received into school or attending school.

§ 4. Subdivisions 2 and 3 of section 914 of the education law, subdivision 2 as added by chapter 443 of the laws of 1979 and subdivision 3 as amended by chapter 166 of the laws of 1985, are amended to read as follows:

2. Each school district shall assist and cooperate with the municipality in the development of a plan required by section [six hundred eighty] *six hundred thirteen* of the public health law.

3. Each school district shall participate in the surveys directed by the state commissioner of health pursuant to section [six hundred eighty] *six hundred thirteen* of the public health law of the immunization level of the children entering and attending school within such district[, ] and which shall be subject to audit by the state commis-

2788

LAWS OF NEW YORK, 1989

[Chap.

sioner of health. Each school and school district shall provide the state commissioner of health with any records and reports he may require for the purpose of such audit. In no event shall the state commissioner of health disclose student identity.

§ 5. This act shall take effect January 1, 1990.

## CHAPTER 539

AN ACT to amend the state finance law and chapter 583 of the laws of 1986 amending the state finance law relating to the regulation of funding of state installment purchases through the use of certificates of participation, in relation to installment purchases and lease purchases of personal property including such purchases financed by certificates of participation issued pursuant to article 5-A of the state finance law

Became a law July 16, 1989, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Section 66-a of the state finance law, as added by chapter 583 of the laws of 1986 and subdivision 4 as amended by chapter 577 of the laws of 1988, is amended to read as follows:

§ 66-a. Restriction on issuance of certificates of participation. 1. No person, partnership, corporation or other legal entity nor any state officer, employee, agency, department, *the city university of New York*, the legislature or the judiciary shall issue certificates of participation or similar instruments representing the right to receive a proportionate share in lease, installment or other periodic payments to be made by any state department [or], agency or *the city university of New York* except in accordance with the provisions of this article and with the express written approval of the state comptroller. The provisions of this section are hereby made a part of every purchase contract entered into by such a state entity providing for periodic payments by any state department [or], agency or *the city university of New York*. Every such contract shall contain a clause expressly reciting the provisions of this subdivision, provided, however, that the absence of such clause in such a contract shall not obviate the duty of all parties thereto to comply with the provisions of this subdivision. Neither this provision, nor any other provision of this article shall be construed to prevent such state entities from entering into installment purchase or lease purchase agreements funded without the use of certificates of participation or similar instruments.

2. For the purposes of this article, "state departments and agencies" shall not include the legislature or the judiciary, and the provisions of this article shall not apply to installment purchase or lease purchase contracts entered into by the legislature or the judiciary financed by the issuance of certificates of participation or similar instruments representing the right to receive a proportionate share in lease, installment or other periodic payments to be made by the legislature or judiciary.

3. No state officer, employee, department [or], agency or *the city university of New York* shall enter into any agreement in connection with the issuance of certificates of participation which requires any payment by the state to the trustee, on behalf of holders of such certificates, during the month of April of any year.

4. After March thirty-first, nineteen hundred ninety, no person, partnership, corporation or other legal entity, nor any state officer, employee, agency, department, *the city university of New York*, the legislature or the judiciary shall issue or cause to be issued certificates of participation or similar instruments representing the right to receive a proportionate share in lease, installment or other periodic



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\*\*\* Statutes current through the 2013 Regular Session \*\*\*

\*\*\* Annotations Current through September 6, 2013 \*\*\*

CHAPTER 130A. PUBLIC HEALTH  
 ARTICLE 6. COMMUNICABLE DISEASES  
 PART 2. IMMUNIZATION

[Go to the North Carolina Code Archive Directory](#)

N.C. Gen. Stat. § 130A-156 (2013)

§ 130A-156. Medical exemption

The Commission for Public Health shall adopt by rule medical contraindications to immunizations required by G.S. 130A-152. If a physician licensed to practice medicine in this State certifies that a required immunization is or may be detrimental to a person's health due to the presence of one of the contraindications adopted by the Commission, the person is not required to receive the specified immunization as long as the contraindication persists. The State Health Director may, upon request by a physician licensed to practice medicine in this State, grant a medical exemption to a required immunization for a contraindication not on the list adopted by the Commission.

**HISTORY:** 1957, c. 1357, s. 1; 1959, c. 177; 1965, c. 652; 1971, c. 191; 1979, c. 56, s. 1; 1983, c. 891, s. 2; 1987, c. 782, s. 18; 1989, c. 122; 1999-110, s. 6; 2007-182, s. 2.

**NOTES:** EFFECT OF AMENDMENTS. --Session Laws 2007-182, s. 2, effective July 5, 2007, substituted "Commission for Public Health" for "Commission for Health Services" at the beginning of the section.

LexisNexis 50 State Surveys, Legislation & Regulations

Childhood & Student Vaccinations

CASE NOTES

CITED in In re Stratton, 153 N.C. App. 428, 571 S.E.2d 234 (2002), review denied, 356 N.C. 436, 573 S.E.2d 512 (2002).

1989 Chapter 122 130A-156 (effective February 1, 1990)

Session Laws — 1989

CHAPTER 123

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration."

Sec. 2. This act shall become effective July 1, 1989.

In the General Assembly read three times and ratified this the 22nd day of May, 1989.

S.B. 416

CHAPTER 122

AN ACT TO CLARIFY THE MEDICAL CONTRAINDICATIONS TO STATE-MANDATED IMMUNIZATIONS.

*The General Assembly of North Carolina enacts:*

Section 1. G.S. 130A-156 reads as rewritten:

" § 130A-156. *Medical exemption.*

The Commission for Health Services shall adopt by rule a list of medical contraindications to immunizations required by G.S. 130A-152. If a physician licensed to practice medicine in this State certifies that ~~an immunization required by G.S. 130A-152~~ a required immunization is or may be detrimental to a person's health due to the presence of ~~a specific contraindication~~, one of the contraindications listed by the Commission, the person is not required to receive the specified immunization as long as the contraindication persists. The State Health Director may, upon request by a physician licensed to practice medicine in this State, grant a medical exemption to a required immunization for a contraindication not on the list adopted by the Commission."

Sec. 2. This act shall become effective February 1, 1990, except that the Commission for Health Services shall, upon ratification of this act, adopt rules to implement this act, which rules shall become effective February 1, 1990.

In the General Assembly read three times and ratified this the 23rd day of May, 1989.

H.B. 88

CHAPTER 123

AN ACT TO REPEAL THE PROHIBITION OF THE MANUFACTURE AND SALE OF LIQUOR IN THE TOWN OF LINDEN.

*The General Assembly of North Carolina enacts:*

Section 1. Section 8 of Chapter 398 of the Private Laws of 1913 is repealed.

1999 Chap 110, section 6 (Effective May 28<sup>th</sup>, 1999)  
1999]

S.L. 1999-111

(d) Any adult who attends school ~~(K-12)~~, (pre K-12), whether public, private or religious, shall obtain the immunizations required in G.S. 130A-152 and shall present to the school a certificate in accordance with this section. The physician or local health department administering a required vaccine to the adult shall give a certificate of immunization to the person. The certificate shall state the person's name, address, date of birth and sex; the number of doses of the vaccine given; the date the doses were given; the name and addresses of the physician or local health department administering the required immunization; and other relevant information required by the Commission."

Section 5. G.S. 130A-155.1(d) is repealed.

Section 6. G.S. 130A-156 reads as rewritten:

"§ 130A-156. *Medical exemption.*

The Commission for Health Services shall adopt by rule ~~a list of~~ medical contraindications to immunizations required by G.S. 130A-152. If a physician licensed to practice medicine in this State certifies that a required immunization is or may be detrimental to a person's health due to the presence of one of the contraindications ~~listed~~ adopted by the Commission, the person is not required to receive the specified immunization as long as the contraindication persists. The State Health Director may, upon request by a physician licensed to practice medicine in this State, grant a medical exemption to a required immunization for a contraindication not on the list adopted by the Commission."

Section 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of May, 1999.

Became law upon approval of the Governor at 3:00 p.m. on the 28th day of May, 1999.

S.B. 658

SESSION LAW 1999-111

AN ACT TO EXTEND THE SUNSET ON THE LAW PROVIDING THAT CERTAIN SECONDARY SUPPLIERS OF ELECTRIC SERVICE MAY FURNISH SERVICE WITHIN THE CORPORATE LIMITS OF A CITY WITH WRITTEN CONSENT FROM THE CITY, ALLOWING THE BOARD OF AN ELECTRIC OR TELEPHONE MEMBERSHIP CORPORATION TO VOTE BY PROXY ON DECISIONS TO ENCUMBER CORPORATE PROPERTY OR TO DISSOLVE AN ELECTRIC MEMBERSHIP CORPORATION, AND MAKING TECHNICAL CHANGES TO THE LAW REGARDING MUNICIPAL ELECTRIC SERVICE.

*The General Assembly of North Carolina enacts:*

Section 1. Section 6 of S.L. 1997-346 reads as rewritten:

"Section 6. This act is effective when it becomes law and applies only to annexations or incorporations that occur on or after the effective date. ~~This act expires on the date of the adjournment sine die of the 1999 General Assembly.~~ This act expires on December 31, 2003."

Section 2. This act is effective when it becomes law.



**2007 Chap 182, section 2 (Effective July 5, 2007)**

S.L. 2007-182

Session Laws - 2007

another dog or with another animal is guilty of a Class H felony. A lease of property that is used or is intended to be used for an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is void, and a lessor who knows this use is made or is intended to be made of the lessor's property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains a dog with the intent that the dog be used in an exhibition featuring the baiting of that dog or the fighting of that dog with another dog or with another animal is guilty of a Class H felony.

(c) A person who participates as a spectator at an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony.

(d) This section does not prohibit the use of dogs in the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.

(f) This section does not apply to the use of herding dogs engaged in the working of domesticated livestock for agricultural, entertainment, or sporting purposes.

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of June, 2007.

Became law upon approval of the Governor at 8:10 a.m. on the 5<sup>th</sup> day of July, 2007.

**Session Law 2007-182****House Bill 720**

**AN ACT TO CHANGE THE NAME OF THE DIVISION OF FACILITY SERVICES  
AND THE COMMISSION FOR HEALTH SERVICES TO BETTER REFLECT  
THE FUNCTIONS AND DUTIES PERFORMED BY THE DIVISION AND THE  
COMMISSION.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** In order to better reflect the functions and duties performed by the Division of Facility Services of the Department of Health and Human Services, the Division of Facility Services is renamed the Division of Health Service Regulation. Wherever the name "Division of Facility Services" appears in the General Statutes, the Revisor of Statutes shall replace "Division of Facility Services" with "Division of Health Service Regulation."

**SECTION 1.1.** The following sections of the General Statutes are amended by deleting "Division of Facilities Services" and substituting "Division of Health Service Regulation": G.S. 90-21.15, 131D-34, 131E-129, and 143-519.

**SECTION 1.2.** The following section of the General Statutes is amended by deleting "Commission of Health Services" and substituting "Commission for Public Health": G.S. 90-210.129.

**SECTION 1.3** The following sections of the General Statutes are amended by deleting "Health Services Commission" and substituting "Commission for Public Health": G.S. 7B-1413, 131D-9, and 131E-113.

**SECTION 2.** In order to better reflect the functions and duties performed by the Commission for Health Services of the Department of Health and Human Services, the Commission for Health Services is renamed the Commission for Public Health. Wherever the name "Commission for Health Services" appears in the General Statutes,

the Revisor of Statutes shall replace "Commission for Health Services" with "Commission for Public Health."

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of June, 2007.

Became law upon approval of the Governor at 8:10 a.m. on the 5<sup>th</sup> day of July, 2007.

**Session Law 2007-183**

**House Bill 786**

**AN ACT TO ENSURE DISTRICT ATTORNEYS RECEIVE ALL NECESSARY INFORMATION FROM LAW ENFORCEMENT AGENCIES AS RECOMMENDED BY THE HOUSE INTERIM STUDY COMMITTEE ON CAPITAL PUNISHMENT.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 15A-903 reads as rewritten:

**"§ 15A-903. Disclosure of evidence by the State – Information subject to disclosure.**

- (a) Upon motion of the defendant, the court must order the State to:
  - (1) Make available to the defendant the complete files of all law enforcement and prosecutorial agencies involved in the investigation of the crimes committed or the prosecution of the defendant. The term "file" includes the defendant's statements, the codefendants' statements, witness statements, investigating officers' notes, results of tests and examinations, or any other matter or evidence obtained during the investigation of the offenses alleged to have been committed by the defendant. Oral statements shall be in written or recorded form. The defendant shall have the right to inspect and copy or photograph any materials contained therein and, under appropriate safeguards, to inspect, examine, and test any physical evidence or sample contained therein.
  - (2) Give notice to the defendant of any expert witnesses that the State reasonably expects to call as a witness at trial. Each such witness shall prepare, and the State shall furnish to the defendant, a report of the results of any examinations or tests conducted by the expert. The State shall also furnish to the defendant the expert's curriculum vitae, the expert's opinion, and the underlying basis for that opinion. The State shall give the notice and furnish the materials required by this subsection within a reasonable time prior to trial, as specified by the court.
  - (3) Give the defendant, at the beginning of jury selection, a written list of the names of all other witnesses whom the State reasonably expects to call during the trial. Names of witnesses shall not be subject to disclosure if the State certifies in writing and under seal to the court that to do so may subject the witnesses or others to physical or substantial economic harm or coercion, or that there is other particularized, compelling need not to disclose. If there are witnesses that the State did not reasonably expect to call at the time of the

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\*\*\* Statutes current through the 2013 Regular Session \*\*\*

\*\*\* Annotations Current through September 6, 2013 \*\*\*

CHAPTER 130A. PUBLIC HEALTH  
 ARTICLE 6. COMMUNICABLE DISEASES  
 PART 2. IMMUNIZATION

[Go to the North Carolina Code Archive Directory](#)

N.C. Gen. Stat. § 130A-157 (2013)

§ 130A-157. **Religious exemption**

If the bona fide religious beliefs of an adult or the parent, guardian or person in loco parentis of a child are contrary to the immunization requirements contained in this Chapter, the adult or the child shall be exempt from the requirements.

Upon submission of a written statement of the bona fide religious beliefs and opposition to the immunization requirements, the person may attend the college, university, school or facility without presenting a certificate of immunization.

**HISTORY:** 1957, c. 1357, s. 1; 1959, c. 177; 1965, c. 652; 1971, c. 191; 1979, c. 56, s. 1; 1983, c. 891, s. 2; 1985, c. 692, s. 2; 2002-179, s. 17.

**NOTES:** LEGAL PERIODICALS. --For article, "The Children We Abandon: Religious Exemptions to Child Welfare and Educational Laws as Denials of Equal Protection to Children of Religious Objectors," see 74 N.C.L. Rev. 1321 (1996).

LexisNexis 50 State Surveys, Legislation & Regulations

Childhood & Student Vaccinations

CASE NOTES

EVEN THOUGH THEIR PARENTAL RIGHTS HAD NOT BEEN FORMALLY TERMINATED, PARENTS LOST THE RIGHT TO OBJECT TO THEIR CHILDREN'S IMMUNIZATION, on religious grounds, where they lost custody of the children due to neglect, including the failure to provide the children with adequate shelter, clothing, food, medical care, and a formal education. In re

Stratton, 153 N.C. App. 428, 571 S.E.2d 234 (2002), review denied, 356 N.C. 436, 573 S.E.2d 512 (2002).

1983 ; 1983, c. 891, s. 2 (Effective January 1, 1984)

## CHAPTER 889 Session Laws—1983

regulations will be designed to insure that no minor is improperly admitted to or remains in such treatment facilities."

**Sec. 2.** G.S. 122-56.7(b) is amended by adding the following as the first sentence of that subsection:

"In any case requiring the hearing described in subsection (a) of this section, no petition shall be necessary; the written application for voluntary admission shall serve as the initiating document for the hearing."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

## S. B. 685 CHAPTER 890

### AN ACT CONCERNING THE TRANSPORTATION OF FARM PRODUCTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-399(b) is amended by adding the following sentence at the end:

"This presumption, however, does not apply to a vehicle transporting agricultural products or supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

## S. B. 141 CHAPTER 891

### AN ACT TO REWRITE THE PUBLIC HEALTH LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 130 of the General Statutes is repealed, except for G.S. 130-3(a), 130-9(e), 130-9.5, 130-9.7, 130-166.21D, 130-170.1, 130-170.2, 130-187, 130-203 through 130-205, 130-230, 130-232 through 130-235, and 130-264 through 130-277.

**Sec. 2.** A new Chapter 130A is added to the General Statutes to read as follows:

"CHAPTER 130A.

"Public Health.

"ARTICLE 1.

"Definitions, General Provisions and Remedies.

"Part 1. General Provisions.

"§ 130A-1. *Title.*—This Chapter shall be known as the Public Health Law of North Carolina.

"§ 130A-2. *Definitions.*—The following definitions shall apply throughout this Chapter unless otherwise specified:

(1) 'Commission' means the Commission for Health Services.

(2) 'Department' means the Department of Human Resources.

(3) 'Imminent hazard' means a situation which is likely to cause an immediate threat to life or a serious risk of irreparable damage to the environment if no immediate action is taken.

(4) 'Local board of health' means a district board of health or a county board of health.

## Session Laws—1983

## CHAPTER 891

extended period, the principal or operator shall not permit the child to attend the school or facility unless the required immunization has been obtained.

(b) The school or day-care facility shall maintain on file immunization records for all children attending the school or facility which contain the information required for a certificate of immunization as specified in G.S. 130A-154. These certificates shall be open to inspection by the Department and the local health department during normal business hours. When a child transfers to another school or facility, the school or facility which the child previously attended shall, upon request, send a copy of the child's immunization record at no charge to the school or facility to which the child has transferred.

(c) Within 60 calendar days after the commencement of a new school year, the school shall file an immunization report with the Department. The day-care facility shall file an immunization report annually with the Department. The report shall be filed on forms prepared by the Department and shall state the number of children attending the school or facility, the number of children who had not obtained the required immunization within 30 days of their first attendance, the number of children who received a medical exemption and the number of children who received a religious exemption.

(d) Any adult who attends school (K-12), whether public, private or religious, shall obtain the immunizations required in G.S. 130A-152 and shall present to the school a certificate in accordance with this section. The physician or local health department administering a required vaccine to the adult shall give a certificate of immunization to the person. The certificate shall state the person's name, address, date of birth and sex; the number of doses of the vaccine given; the date the doses were given; the name and addresses of the physician or local health department administering the required immunization; and other relevant information required by the Commission.

"§ 130A-156. *Medical/Exemption*.—If a physician licensed to practice medicine in this State certifies that an immunization required by G.S. 130A-152 is or may be detrimental to a person's health, the person is not required to receive the specified immunization until the physician certifies that the immunization will not be detrimental to the person's health.

"§ 130A-157. *Religious* \_\_\_\_\_.—If the bona fide religious beliefs of an adult or the parent, guardian or person in loco parentis of a child are contrary to the immunization requirements contained in this Part, the adult or the child shall be exempt from the requirements. Upon submission of a written statement of the bona fide religious beliefs and opposition to the immunization requirements, the person may attend the school or facility without presenting a certificate of immunization.

"§ 130A-158 to 130A-159: Reserved for future codification purposes.

"Part 3. Venereal Disease.

"§ 130A-160. *Commission to adopt rules*.—For the protection of the public health, the Commission shall adopt rules for the purpose of preventing, controlling, treating and eradicating venereal disease.

"§ 130A-161. *Venereal disease definition*.—For the purposes of this Part, venereal disease includes syphilis, gonorrhea, chancroid, granuloma inguinale, lymphogranuloma venereum and any other sexually transmitted disease that the Commission determines is or may be controllable and for which the Commission requires reporting.

## Session Laws—1983

## CHAPTER 893

punishment as if this act had not been enacted. Any claim arising under any provisions of the statutes repealed or amended by this act prior to the effective date of this act shall remain valid as if this act had not been enacted.

**Sec. 16.1.** If any bill ratified by the 1983 General Assembly, whether ratified before or after this bill, amends a part of Chapter 130 of the General Statutes which is repealed by this bill, the bill will be construed to amend the appropriate part of the new Chapter 130A of the General Statutes enacted by this bill.

**Sec. 17.** This act shall become effective January 1, 1984, except that the provision in G.S. 130A-185 requiring the vaccination of all cats over four months of age shall become effective July 1, 1984. However, upon ratification of this act, the Commission for Health Services is authorized to adopt rules under the provisions of this act; provided, the rules shall not be effective before the effective date of the act.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

## H. B. 881

## CHAPTER 892

## AN ACT TO ALLOW THE DARE COUNTY AIRPORT AUTHORITY TO ADOPT ORDINANCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 503, Session Laws of 1971 is amended by adding a new subdivision to read:

"(4a) To adopt ordinances applying to lands or property owned by or administered by the Authority to the same extent that Dare County could adopt such ordinances if it owned or administered the lands or property."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

## H. B. 1472

## CHAPTER 893

## AN ACT TO ALLOW THE CITY OF REIDSVILLE TO SELL CERTAIN PROPERTY TO ELTON TRENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding G.S. 14-234, Elton Trent may bid on and purchase from the City of Reidsville if he is the highest bidder, the following described property: The property is described as being 6.157 acres as shown on a plat of survey prepared by Obie M. Chambers and Associates, dated March 1983 for the City of Reidsville, which plat is on file and may be examined at the City Clerk's office of the City of Reidsville, 230 West Morehead Street between the hours of 8:30 a.m. and 5:00 p.m. week days.

**Sec. 2.** Elton Trent may not vote to accept or confirm bids on the property described in Section 1 of this act if he made a bid.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

1985 Chapter 692, section 2 (effective July 11, 1985)

Session Laws—1985

CHAPTER 694

**Sec. 2.** G.S. 130A-157 is amended in the second sentence by inserting immediately before the word "school" the phrase "college, university,".

**Sec. 3.** This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 11th day of July, 1985.

H.B. 938

CHAPTER 693

AN ACT TO AMEND G.S. 143-295 TO INCREASE SETTLEMENT AUTHORITY OF ATTORNEY GENERAL IN TORT CLAIMS FROM FIVE THOUSAND DOLLARS TO TEN THOUSAND DOLLARS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-295(a) is hereby amended by striking the words and figures "five thousand dollars (\$5,000)" appearing therein in lines 4 and 6 and inserting in lieu thereof the words and figures "ten thousand dollars (\$10,000)".

**Sec. 2.** G.S. 143-295(b) is hereby amended by striking the words and figures "five thousand dollars (\$5,000)" and substituting the words and figures "ten thousand dollars (\$10,000)".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1985.

H.B. 1010

CHAPTER 694

AN ACT TO CLARIFY THE DEFINITION OF PREFERENCE OR ADVANTAGE IN UTILITIES REGULATION AND TO PROVIDE A CORPORATE INCOME TAX CREDIT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 62-140(a) is amended to add at the end the following sentence:

"Provided further, that it shall not be considered an unreasonable preference or advantage for the Commission to order, if it finds the public interest so requires, a reduction in local telephone rates for low-income residential consumers meeting a means test established by the Commission in order to match any reduction in the interstate subscriber line charge authorized by the Federal Communications Commission."

**Sec. 2.** Division I of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-130.38. *Credit for certain telephone subscriber line charges.* A corporation that provides local telephone service to low-income residential consumers at reduced rates pursuant to an order of the North Carolina Utilities Commission is allowed a credit against the tax imposed by this Division equal to the difference between:

- (1) The amount of receipts the corporation would have received during the taxable year from those low-income customers had the customers been charged the regular rates for local telephone service and fees; and



## 2002 Chapter 179, section 17 (effective October 31, 2002)

Session Laws – 2002

S.L. 2002-179

**SECTION 14.** G.S. 15A-401(b) reads as rewritten:**"(b) Arrest by Officer Without a Warrant. –**

- (1) Offense in Presence of Officer. –** An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.
- (2) Offense Out of Presence of Officer. –** An officer may arrest without a warrant any person who the officer has probable cause to believe:
  - a.** Has committed a felony; or
  - b.** Has committed a misdemeanor, and:
    - 1.** Will not be apprehended unless immediately arrested, or
    - 2.** May cause physical injury to himself or others, or damage to property unless immediately arrested; or
  - c.** Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or
  - d.** Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1), 14-33(c)(2), or 14-34 when the offense was committed by a person with whom the alleged victim has a personal relationship as defined in G.S. 50B-1; or
  - e.** Has committed a misdemeanor under G.S. 50B-4.1(a).
- (3) Repealed by Session Laws 1991, c. 150.**
- (4) A law enforcement officer may detain an individual arrested for violation of an order limiting freedom of movement or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 in the area designated by the State Health Director or local health director pursuant to such order. The person may be detained in such area until the initial appearance before a judicial official pursuant to G.S. 15A-511 and G.S. 15A-534.5.**

**SECTION 15.** Article 26 of Chapter 15A is amended by adding a new section to read:

**"§ 15A-534.5. Detention to protect public health.**

**If a judicial official conducting an initial appearance finds by clear and convincing evidence that a person arrested for violation of an order limiting freedom of movement or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 poses a threat to the health and safety of others, the judicial official shall deny pretrial release and shall order the person to be confined in an area or facility designated by the judicial official. Such pretrial confinement shall terminate when a judicial official determines that the confined person does not pose a threat to the health and safety of others. These determinations shall be made only after the State Health Director or local health director has made recommendations to the court."**

**SECTION 16.** G.S. 7A-451(a) is amended by adding the following new subdivision:

- "(17) A proceeding involving limitation on freedom of movement or access pursuant to G.S. 130A-475 or G.S. 130A-145."**

**SECTION 17.** G.S. 130A-157 reads as rewritten:**"§ 130A-157. Religious exemption.**

**If the bona fide religious beliefs of an adult or the parent, guardian or person in loco parentis of a child are contrary to the immunization requirements contained in this Part, Chapter, the adult or the child shall be exempt from the requirements. Upon submission of a written statement of the bona fide religious beliefs and opposition to the**

immunization requirements, the person may attend the college, university, school or facility without presenting a certificate of immunization."

**SECTION 18.** G.S. 90-21.22A(c) reads as rewritten:

"(c) The proceedings of a medical review committee, the records and materials it produces, and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, 131E-309, or 58-2-100; and shall not be subject to discovery or introduction into evidence in any civil action against a provider of health care services who directly provides services and is licensed under this Chapter, a PSO licensed under Article 17 of Chapter 131E of the General Statutes, an ambulatory surgical facility licensed under Chapter 131E of the General Statutes, or a hospital licensed under Chapter 122C or Chapter 131E of the General Statutes or that is owned or operated by the State, which civil action results from matters that are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. A member of the committee may testify in a civil action but cannot be asked about his or her testimony before the committee or any opinions formed as a result of the committee hearings."

**SECTION 19.** G.S. 131E-95(b) reads as rewritten:

"(b) The proceedings of a medical review committee, the records and materials it produces and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, "Public records' defined," and shall not be subject to discovery or introduction into evidence in any civil action against a hospital, an ambulatory surgical facility licensed under Chapter 131E of the General Statutes, or a provider of professional health services which results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. A member of the committee or a person who testifies before the committee may testify in a civil action but cannot be asked about his testimony before the committee or any opinions formed as a result of the committee hearings."

**SECTION 20.(a)** Article 1 of Chapter 90 is amended by adding a new section to read:

**"§ 90-12.2. Disasters and emergencies.**

In the event of an occurrence which the Governor of the State of North Carolina has declared a disaster or when the Governor has declared a state of emergency, or in the event of an occurrence for which a county or municipality has enacted an ordinance to deal with states of emergency under G.S. 14-288.12, 14-288.13, or 14-288.14, or to protect the public health, safety, or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes, G.S. 160A-174(a) or G.S. 153A-121(a), as applicable, the Board may waive the requirements of this Article in order to permit the provision of emergency health services to the public."

North Dakota  
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NORTH DAKOTA CENTURY CODE  
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\*\*\* This document is current through the 2013 Regular Legislative Session \*\*\*

\*\*\* Annotations current through July 10, 2013 \*\*\*

TITLE 23 Health and Safety  
CHAPTER 23-07 Reportable Diseases

[Go to the North Dakota Code Archive Directory](#)

N.D. Cent. Code, § 23-07-17.1 (2013)

**23-07-17.1.** Inoculation required before admission to school.

1. A child may not be admitted to any public, private, or parochial school, or day care center, child care facility, head start program, or nursery school operating in this state or be supervised through home-based instruction unless the child's parent or guardian presents to the institution authorities a certification from a licensed physician or authorized representative of the state department of health that the child has received age appropriate immunization against diphtheria, pertussis, tetanus, measles, rubella (German measles), mumps, hepatitis B, haemophilus influenza type b (Hib), varicella (chickenpox), poliomyelitis, pneumococcal disease, meningococcal disease, rotavirus, and hepatitis A. In the case of a child receiving home-based instruction, the child's parent or legal guardian shall file the certification with the public school district in which the child resides.

2. A child may enter an institution upon submitting written proof from a licensed physician or authorized representative of the state department of health stating that the child has started receiving the required immunization or has a written consent by the child's parent or guardian for a local health service or department to administer the needed immunization without charge or has complied with the requirements for certificate of exemption as provided for in subsection 3.

3. Any minor child, through the child's parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by the child's parent or guardian

whose religious, philosophical, or moral beliefs are opposed to such immunization. The minor child is then exempt from the provisions of this section.

4. The enforcement of subsections 1, 2, and 3 is the responsibility of the designated institution authority.

5. The immunizations required, and the procedure for their administration, as prescribed by the state department of health, must conform to recognized standard medical practices in the state. The state department of health shall administer the provisions of this section and shall promulgate rules and regulations in the manner prescribed by chapter 28-32 for the purpose of administering this section.

6. When, in the opinion of the health officer, danger of an epidemic exists from any of the communicable diseases for which immunization is required under this section, the exemptions from immunization against such disease may not be recognized and children not immunized must be excluded from an institution listed in subsection 1 until, in the opinion of the health officer, the danger of the epidemic is over. The designated institution authority shall notify those parents or guardians taking legal exception to the immunization requirements that their children are excluded from school during an epidemic as determined by the state department of health.

7. When, in the opinion of the health officer, extenuating circumstances make it difficult or impossible to comply with immunization requirements, the health officer may authorize children who are not immunized to be admitted to an institution listed in subsection 1 until the health officer determines that the extenuating circumstances no longer exist. Extenuating circumstances include a shortage of vaccine and other temporary circumstances.

**HISTORY:** S.L. 1975, ch. 224, § 1; 1979, ch. 314, § 1; 1993, ch. 253, § 1; 1995, ch. 243, § 2; 1999, ch. 234, § 1; 1999, ch. 235, § 1; 2003, ch. 212, § 1; 2007, ch. 238, §§ 1, 2.

#### **NOTES:**

LexisNexis 50 State Surveys, Legislation & Regulations

Childhood & Student Vaccinations

## DECISIONS UNDER PRIOR LAW

Exclusion of Pupil from School.

Exclusion of Pupil from School.

Under law requiring vaccination against infectious or contagious diseases, children could not be excluded from school for nonvaccination in the absence of a showing of danger due to existence of smallpox in the community, or that such danger was reasonably imminent. Rhea v. Board of Educ., 41 N.D. 449, 171 N.W. 103 (1919).

## Collateral References.

Power of court or other public agency to order vaccination over parental religious objection, 94 A.L.R.5th 613.

1979 Chapter 314, section 1 (approved March 15<sup>th</sup>, 1979)

758

CHAPTER 314

HEALTH AND SAFETY

## CHAPTER 314

HOUSE BILL NO. 1509  
(Eagles)

### CHILD INOCULATIONS

AN ACT to amend and reenact section 23-07-17.1 of the North Dakota Century Code, relating to inoculations required before admission to school and providing exemptions; and to repeal section 23-14-02 of the North Dakota Century Code, relating to compulsory vaccination or inoculation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 23-07-17.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-07-17.1. INOCULATION REQUIRED BEFORE ADMISSION TO SCHOOL.)

1. No child shall be admitted to any public, private, or parochial elementary school, or day care center, child care facility, head start program, or nursery school operating in North Dakota unless such child's parent or guardian presents to the ~~school~~ institution authorities a certification from a licensed physician or authorized representative of the state department of health that such child has received immunization against diphtheria, pertussis, tetanus, measles ~~(rubella)~~, rubella (German measles), mumps, and poliomyelitis.
2. A child may enter ~~school~~ an institution upon submitting written proof from a licensed physician or authorized representative of the state department of health stating that he has started receiving the required immunization or has a written consent by the child's parent or guardian for a local health service or department to administer the needed immunization without charge or has complied with the requirements for certificate of exemption as provided for in subsection 3.
3. ~~The--immunisations--required,--and--the--procedure--for--their--administration,--as--prescribed--by--the--state--department--of~~

~~health,--shall--conform--to--recognized--standard--medical practices in the state.--The state--department--of--health shall--administer the provisions of this section and shall promulgate rules and regulations in the manner--prescribed by--chapter--28-32--for--the purpose of administering this section.~~ Any minor child, through his parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by his parent or guardian whose beliefs are opposed to such immunization. The minor child shall then be exempt from the provisions of this section.

4. ~~The--list--of--diseases--in--subsection--1--may be revised through regulations by the state department of health upon the--development--of--a--nationally--recognized--effective vaccine against a disease~~ The enforcement of subsections 1, 2, and 3 shall be the responsibility of the designated institution authority.
5. ~~Any--minor--child,--through--his--parents or guardian, may submit to the school--authorities--a--certificate--from--a licensed physician stating that the physical condition of the child is such that--immunisation--would--endanger--the life or health of the child and the minor child shall then be--exempt--from--the--provisions--of--this--section~~ The immunizations required, and the procedure for their administration, as prescribed by the state department of health, shall conform to recognized standard medical practices in the state. The state department of health shall administer the provisions of this section and shall promulgate rules and regulations in the manner prescribed by chapter 28-32 for the purpose of administering this section.
6. ~~Before any child is immunized the school authorities shall notify the parent or guardian of--their--right--to--refuse such--immunisation~~ When, in the opinion of the health officer, danger of an epidemic exists from any of the communicable diseases for which immunization is required under this Act, the exemptions from immunization against such disease shall not be recognized and children not immunized shall be excluded from an institution listed in subsection 1 until, in the opinion of the health officer, the danger of the epidemic is over. The designated institution authority shall notify those parents or guardians taking legal exception to the immunization requirements that their children are excluded from school during an epidemic as determined by the state department of health.

SECTION 2. REPEAL.) Section 23-14-02 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1979

1993 Chapter 253, section 1 (Approved March 10, 1993)

882

CHAPTER 253

HEALTH AND SAFETY

## CHAPTER 253

SENATE BILL NO. 2180  
(Education Committee)

(At the request of the Superintendent of Public Instruction)

### INNOCULATION OF HOME-BASED STUDENTS

AN ACT to amend and reenact subsection 1 of section 23-07-17.1 of the North Dakota Century Code, relating to inoculation required before admission to school.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 23-07-17.1 of the North Dakota Century Code is amended and reenacted as follows:

1. No child may be admitted to any public, private, or parochial school, or day care center, child care facility, headstart program, or nursery school operating in North Dakota or be supervised through home-based instruction unless such child's parent or guardian presents to the institution authorities a certification from a licensed physician or authorized representative of the state department of health and consolidated laboratories that such child has received immunization against diphtheria, pertussis, tetanus, measles, rubella (German measles), mumps, and poliomyelitis. In the case of a child receiving home-based instruction, the child's parent or legal guardian shall file the certification with the superintendent of public instruction.

Approved March 10, 1993  
Filed March 11, 1993



1995 Chapter 243, section 2 (Approved May 21, 1995)

Health and Safety

Chapter 243

753

# HEALTH AND SAFETY

## CHAPTER 243

### HOUSE BILL NO. 1058

(Legislative Council)  
(Interim Natural Resources Committee)  
(Representatives Carlisle, Hanson, Coats)  
(Senator Nalewaja)

## STATE DEPARTMENT OF HEALTH NAME CHANGE

AN ACT to rename the state department of health and consolidated laboratories the state department of health; and to amend and reenact section 23-01-01.1 of the North Dakota Century Code, relating to changing references to the state department of health and consolidated laboratories to the state department of health.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 23-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**23-01-01.1.** State department of health ~~and consolidated laboratories~~ to replace state department of health ~~and consolidated laboratories~~. Wherever the terms "North Dakota state department of health", "state department of health", "department of health", ~~or "health department" appear in this code; the term, "state department of health and consolidated laboratories" must be substituted therefor;~~

~~Wherever the terms, "North Dakota state laboratories department", "state laboratories department", "state laboratories department director", or "state laboratories director" appear in this code, the term "state department of health and consolidated laboratories" must be substituted therefor unless otherwise provided herein.~~

Wherever the terms "state food commissioner and chemist" and "commissioner" when referring to the state food commissioner and chemist appear in chapters 19-17 and 19-18 of the North Dakota Century Code, the term "state department of health ~~and consolidated laboratories~~" must be substituted therefor ~~unless otherwise provided herein.~~

**\* SECTION 2. STATUTORY REFERENCES RELATING TO STATE DEPARTMENT OF HEALTH.** The legislative council may insert appropriate references in the sections of law listed in this section, consistent with usages contained in this Act. References inserted may be adjusted to suit the context and grammar of the sections and must be inserted so as to harmonize existing law with regard to the name changes provided by this Act. The sections of the North Dakota Century Code to which the authority of this section applies are sections 4-18.1-08, 6-09.6-02, 6-09.6-04, 11-19.1-16, 14-02.1-02, 14-02.1-02.1, 14-02.1-07, 14-02.1-07.1, 14-02.1-09, 14-07.1-01, 14-17-04, 15-10-17, 15-21.1-03, 15-52-03, 15-59-02.1, 15-59-05.2, 15-59.3-07, 19-01-01, 19-01-07, 19-02.1-01, 19-02.1-07, 19-02.1-10, 19-02.1-16, 19-03.1-01.1, 19-03.1-17, 19-03.1-37, 19-05.1-05, 19-06.1-05, 19-07-02,

19-10-01, 19-13.1-01, 19-13.1-12, 19-16.1-01, 19-17-05, 19-18-02, 19-20.1-01, 19-21-01, 20.1-03-04, 23-01-01, 23-01-01.1, 23-01-03, 23-01-04.1, 23-01-04.2, 23-01-05, 23-01-06, 23-01-10, 23-01-11, 23-01-14, 23-01-15, 23-01-16, 23-01-18, 23-01-19, 23-01-21, 23-01.1-02, 23-01.1-06, 23-01.1-07, 23-02.1-02, 23-02.1-04, 23-02.1-05, 23-02.1-11, 23-02.1-15, 23-02.1-16, 23-02.1-18, 23-02.1-19, 23-02.1-20, 23-02.1-22, 23-02.1-25, 23-02.1-27, 23-02.1-28, 23-02.1-29, 23-02.1-30, 23-03-07, 23-03-10, 23-04-01, 23-04-02, 23-04-02.1, 23-04-05, 23-04-06, 23-05-01, 23-05-02, 23-06-04, 23-06-07, 23-06-20, 23-06-21, 23-06-22, 23-06-23, 23-06-27, 23-06-30, 23-06.2-11.1, 23-07-01, 23-07-01.1, 23-07-02, 23-07-02.1, 23-07-02.2, 23-07-03, 23-07-05, 23-07-07.5, 23-07-15, 23-07-16.1, 23-07-17.1, 23-07-21, 23-07.3-01, 23-07.4-01, 23-07.4-02, 23-09-01, 23-09-02, 23-09-02.1, 23-09-09, 23-09-10, 23-09-11, 23-09-14, 23-09-16, 23-09-17, 23-09-18, 23-09-19, 23-09-22, 23-09.1-01, 23-09.1-02, 23-09.1-03, 23-09.2-01, 23-09.3-01, 23-09.4-01, 23-10-01, 23-12-10.2, 23-14-01.1, 23-14-07, 23-14-09, 23-16-01, 23-16-03, 23-16-05, 23-16-06, 23-16-09, 23-16-12, 23-16.1-01, 23-17.1-03, 23-17.2-02, 23-17.2-09, 23-17.3-01, 23-17.3-08, 23-17.4-01, 23-19-02, 23-19-03, 23-19-05, 23-19-07, 23-20-03, 23-20-04, 23-20.1-01, 23-20.1-02, 23-20.1-04.5, 23-20.3-02, 23-21-16, 23-21.1-02.1, 23-21.1-03, 23-23-03, 23-25-02, 23-26-02, 23-27-03, 23-27-04.2, 23-29-03, 23-31-01, 23-31-02, 23-31-03, 23-32-01, 23-33-02, 25-01-01.1, 25-17-01, 25-17-02, 25-17-03, 25-17-04, 25-17-05, 26.1-36-08, 26.1-36-09, 27-21-09, 32-37-05, 38-11.1-03.1, 38-11.1-05, 38-14.1-03, 38-14.1-21, 39-26-02, 39-26-10, 43-04-11, 43-10-12, 43-10-23, 43-11-11, 43-15-10, 43-18-02, 43-18-09, 43-26-10, 43-28-02, 43-34-01, 43-35-19, 43-35-19.1, 43-35-19.2, 43-35-20, 43-43-01, 43-48-05, 49-18-31, 50-06-01.2, 50-06-01.4, 50-11.1-07, 50-19-04, 50-19-09, 50-19-10, 50-19-14, 50-21-02, 50-21-03, 50-21-04, 50-24.4-12, 50-25.1-02, 54-06-04, 54-12-08, 54-23.2-04.2, 54-42-06, 54-42-07, 54-42-08, 57-39.2-04, 57-43.2-01, 61-04.1-04, 61-28-02, 61-28.1-02, 61-28.1-03, 61-28.2-01, 61-29-04, 61-30-01, and 65-14-04.

**SECTION 3. MEASURES ENACTED BY THE FIFTY-FOURTH LEGISLATIVE ASSEMBLY RELATING TO STATE DEPARTMENT OF HEALTH.** The legislative council may insert appropriate references in any measure enacted by the fifty-fourth legislative assembly which refers to the terms "North Dakota state department of health and consolidated laboratories" or "state department of health and consolidated laboratories" consistent with usages contained in this Act. References inserted may be adjusted to suit context and grammar of the sections and must be inserted so as to harmonize the legislative measure with regard to the name changes provided by this Act.

**SECTION 4. TRANSITION.** The state department of health shall use all consumables that refer to the department of health and consolidated laboratories before replacing those consumables with consumables that refer to the state department of health. The department shall do everything necessary to minimize the expense of renaming the state department of health and consolidated laboratories the state department of health.

Approved March 21, 1995

Filed March 23, 1995

\* SECTION 2 was affected as follows:

Section 14-07.1-01 was also amended by section 1 of Senate Bill No. 2397, chapter 150.

Section 15-10-17 was also amended by section 1 of House Bill No. 1277, chapter 168.

1999 Chapter 234, section 1 (Effective August 1, 1999)

1000

Chapter 234

Health and Safety

## CHAPTER 234

### SENATE BILL NO. 2143

(Education Committee)

(At the request of the Superintendent of Public Instruction)

## HOME-BASED INSTRUCTION INOCULATION FILING

AN ACT to amend and reenact subsection 1 of section 23-07-17.1 of the North Dakota Century Code, relating to the place of filing certification of inoculation for a child receiving home-based instruction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>176</sup> SECTION 1. AMENDMENT. Subsection 1 of section 23-07-17.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. ~~No~~ A child may not be admitted to any public, private, or parochial school, or day care center, child care facility, headstart program, or nursery school operating in ~~North Dakota~~ this state or be supervised through home-based instruction unless ~~such~~ the child's parent or guardian presents to the institution authorities a certification from a licensed physician or authorized representative of the state department of health that ~~such~~ the child has received immunization against diphtheria, pertussis, tetanus, measles, rubella (German measles), mumps, and poliomyelitis. In the case of a child receiving home-based instruction, the child's parent or legal guardian shall file the certification with the ~~superintendent of public instruction~~ public school district in which the child resides.

Approved March 11, 1999

Filed March 11, 1999

1999 Chapter 235, section 1 (Effective August 1, 1999)

Health and Safety

Chapter 235

1001

## CHAPTER 235

### SENATE BILL NO. 2126

(Senators Thane, DeMers, Kilzer)

(Representatives Price, Rose)

(At the request of the State Department of Health)

## INOCULATION REQUIREMENTS

AN ACT to amend and reenact subsections 1 and 3 of section 23-07-17.1 of the North Dakota Century Code, relating to diseases for which inoculations are required before a child's admission to school.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>177</sup> SECTION 1. AMENDMENT. Subsections 1 and 3 of section 23-07-17.1 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. ~~No~~ A child may not be admitted to any public, private, or parochial school, or day care center, child care facility, headstart program, or nursery school operating in ~~North Dakota~~ this state or be supervised through home-based instruction unless ~~such~~ the child's parent or guardian presents to the institution authorities a certification from a licensed physician or authorized representative of the state department of health that ~~such~~ the child has received immunization against diphtheria, pertussis, tetanus, measles, rubella (German measles), mumps, ~~and~~ hepatitis B, haemophilus influenza type b (Hib), and poliomyelitis. In the case of a child receiving home-based instruction, the child's parent or legal guardian shall file the certification with the ~~superintendent of public instruction~~ public school district in which the child resides.
3. Any minor child, through the child's parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by the child's parent or guardian whose religious, philosophical, or moral beliefs are opposed to such immunization. The minor child is then exempt from the provisions of this section.

Approved March 29, 1999

Filed March 29, 1999

2003 Chapter 212, section 1 (Filed March 17, 2003)

876

Chapter 212

Health and Safety

## CHAPTER 212

### SENATE BILL NO. 2289

(Senators J. Lee, Fischer, Kilzer, Mathern)

(Representatives Niemeier, Price)

## CHICKENPOX INOCULATIONS FOR CHILDREN

AN ACT to amend and reenact subsection 1 of section 23-07-17.1 of the North Dakota Century Code, relating to required inoculations for children.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 1 of section 23-07-17.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A child may not be admitted to any public, private, or parochial school, or day care center, child care facility, head start program, or nursery school operating in this state or be supervised through home-based instruction unless the child's parent or guardian presents to the institution authorities a certification from a licensed physician or authorized representative of the state department of health that the child has received immunization against diphtheria, pertussis, tetanus, measles, rubella (German measles), mumps, hepatitis B, haemophilus influenza type b (Hib), varicella (chickenpox), and poliomyelitis. In the case of a child receiving home-based instruction, the child's parent or legal guardian shall file the certification with the public school district in which the child resides.

Approved March 14, 2003

Filed March 17, 2003



## CHAPTER 232

### HOUSE BILL NO. 1471

(Representatives Ekstrom, Hawken, Nottestad, Potter)  
(Senators Erbele, Heckaman)

## HUMAN PAPILLOMA VIRUS EDUCATION

AN ACT to create and enact a new section to chapter 23-01 of the North Dakota Century Code, relating to state department of health programs to educate about the human papilloma virus; and to provide an appropriation.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

**Human papilloma virus - Information.** The state department of health shall educate the public about the human papilloma virus and the availability of a human papilloma virus vaccine; promote immunization against the human papilloma virus; and distribute informational materials regarding the human papilloma virus and the human papilloma virus vaccine. The department shall distribute the informational material through relevant department programs and divisions, including breast and cervical cancer control programs; immunization programs; family planning programs; and human immunodeficiency virus and sexually transmitted disease programs. Informational materials distributed must include the recommendations of the advisory committee on immunization practices of the federal centers for disease control and prevention; contain information relevant to the target populations of each of the participating programs and divisions distributing the informational materials; and contain information regarding the availability of the vaccine through the vaccines for children program operated by the department under 42 U.S.C. 1396s, and the medical assistance program.

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the state department of health for the purpose of providing human papilloma virus education under section 1 of this Act, for the biennium beginning July 1, 2007, and ending June 30, 2009.

Approved March 28, 2007  
Filed March 28, 2007

Ohio  
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Page's Ohio Revised Code Annotated:  
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Current through Legislation passed by the 130th Ohio General Assembly  
and filed with the Secretary of State through File 59

\*\*\* Annotations current through December 5, 2013 \*\*\*

TITLE 33. EDUCATION -- LIBRARIES  
CHAPTER 3313. BOARDS OF EDUCATION  
MISCELLANEOUS

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ORC Ann. 3313.671 (2013)

§ 3313.671. Required immunizations; exceptions

(A) (1) Except as otherwise provided in division (B) of this section, no pupil, at the time of initial entry or at the beginning of each school year, to an elementary or high school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, shall be permitted to remain in school for more than fourteen days unless the pupil presents written evidence satisfactory to the person in charge of admission, that the pupil has been immunized by a method of immunization approved by the department of health pursuant to section 3701.13 of the Revised Code against mumps, poliomyelitis, diphtheria, pertussis, tetanus, rubeola, and rubella or is in the process of being immunized.

(2) Except as provided in division (B) of this section, no pupil who begins kindergarten at an elementary school subject to the state board of education's minimum standards shall be permitted to remain in school for more than fourteen days unless the pupil presents written evidence satisfactory to the person in charge of admission that the pupil has been immunized by a department of health-approved method of immunization or is in the process of being immunized against both of the following:

- (a) During or after the school year beginning in 1999, hepatitis B;
- (b) During or after the school year beginning in 2006, chicken pox.

(3) As used in divisions (A)(1) and (2) of this section, "in the process of being immunized" means the pupil has been immunized against mumps, rubeola, rubella, and chicken pox, and if the pupil has not been immunized against poliomyelitis, diphtheria, pertussis, tetanus, and hepatitis B, the pupil has received at least the first dose of the immunization sequence, and presents written evidence to the pupil's building principal or chief administrative officer of each subsequent dose required to obtain immunization at the intervals prescribed by the director of health. Any student previously admitted under the "in process of being immunized" provision and who has not complied with the immunization intervals prescribed by the director of health shall be excluded from school on the fifteenth day of the following school year. Any student so excluded shall be readmitted upon showing evidence to the student's building principal or chief administrative officer of progress on the director of health's interval schedule.

(B) (1) A pupil who has had natural rubeola, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against rubeola.

(2) A pupil who has had natural mumps, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against mumps.

(3) A pupil who has had natural chicken pox, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against chicken pox.

(4) A pupil who presents a written statement of the pupil's parent or guardian in which the parent or guardian declines to have the pupil immunized for reasons of conscience, including religious convictions, is not required to be immunized.

(5) A child whose physician certifies in writing that such immunization against any disease is medically contraindicated is not required to be immunized against that disease.

(C) As used in this division, "chicken pox epidemic" means the occurrence of cases of chicken pox in numbers greater than expected in the school's population or for a particular period of time.

Notwithstanding division (B) of this section, a school may deny admission to a pupil otherwise exempted from the chicken pox immunization requirement if the director of the state department of health notifies the school's principal or chief administrative officer that a chicken pox epidemic exists in the school's population. The denial of admission shall cease when the director notifies the principal or officer that the epidemic no longer exists.



The board of education or governing body of each school subject to this section shall adopt a policy that prescribes methods whereby the academic standing of a pupil who is denied admission during a chicken pox epidemic may be preserved.

(D) Boards of health, legislative authorities of municipal corporations, and boards of township trustees on application of the board of education of the district or proper authority of any school affected by this section, shall provide at the public expense, without delay, the means of immunization against mumps, poliomyelitis, rubeola, rubella, diphtheria, pertussis, tetanus, and hepatitis B to pupils who are not so provided by their parents or guardians.

### **HISTORY:**

128 v 707 (Eff 7-7-59); 133 v S 60 (Eff 8-11-69); 133 v S 300 (Eff 11-6-69); 134 v S 450 (Eff 9-27-72); 137 v S 282 (Eff 7-7-78); 140 v H 641 (Eff 7-26-84); 147 v S 153. Eff 9-30-98; 150 v H 463, § 1, eff. 5-6-05.

### **NOTES:**

Related Statutes & Rules

Cross-References to Related Statutes

Health department powers re immunizations, RC § 3701.13.

Immunization of pupils; records, reports, RC § 3313.67.

OH Administrative Code

Department of education; compliance with immunization requirements--

Immunization and health records required of child in day-care program. 3 Ohio Sch. Law: OAC 3301-37-05.

Department of health; local health departments--

Communicable disease control; immunization requirements. OAC 3701-36-06.

Practice Manuals & Treatises

Ohio Transaction Guide: Family Law & Forms § 6.33 Consent to Medical Treatment

LexisNexis 50 State Surveys, Legislation & Regulations

Childhood & Student Vaccinations

Case Notes

ANALYSIS    Constitutionality    Refusal to admit child

### CONSTITUTIONALITY.

Revised Code § 3313.671 is neither unconstitutional on its face nor as applied to children whose parents object to the immunization on the basis of their belief in "chiropractic ethics": Hanzel v. Arter, 625 F. Supp. 1259 (S.D. 1985).

## REFUSAL TO ADMIT CHILD.

A school board may refuse to admit, pursuant to its rules and regulations, a child to a school under its jurisdiction, who has not been immunized against those diseases enumerated in R.C. 3313.671. Such board cannot be required, because of a written objection by his parent or guardian, to admit a child to such school who has not been so immunized: State ex rel. Mack v. Board of Education, 1 Ohio App. 2d 143, 204 N.E.2d 86 (1963).

## OAG

The general assembly, under R.C. 3313.671, has not preempted the field of requiring vaccination or immunization for school pupils but has only promulgated a minimum requirement while specifically authorizing local school districts to continue to make and enforce rules or regulations to secure vaccination or immunization of their pupils, a power which local school districts already had under R.C. 3313.67, which section has not been amended or repealed: 1959 OAG No. 890 (1959).

Pursuant to R.C. 3313.671, the expense of immunization of pupils as provided in said section is to be borne by the particular board of health, municipal corporation or township involved, on application of the board of education of the district or proper authority of a school affected by R.C. 3313.671: 1960 OAG No. 1099 (1960).

1984 140 v Amended House Bill 641 (Eff 7-26-84)

(Amended House Bill Number 641)

4340

## AN ACT

To amend sections 3313.671 and 3323.05 of the Revised Code to require immunization of school children for mumps, to remove the exemption for pubescent female pupils from the requirement that school children be immunized against rubella, and to require that state level reviews of educational placement of handicapped children be conducted by reviewing officers.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 3313.671 and 3323.05 of the Revised Code be amended to read as follows:

Sec. 3313.671. (A) Except as otherwise provided in this division, no pupil, at the time of his initial entry or at the beginning of each school year, to an elementary or high school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, shall be permitted to remain in school for more than fourteen days unless he presents written evidence satisfactory to the person in charge of admission, that he has been immunized by a method of immunization approved by the department of health pursuant to section 3701.13 of the Revised Code against MUMPS, poliomyelitis, diphtheria, pertussis, tetanus, rubeola, and rubella or is in the process of being so immunized. "In the process of being so immunized" means the pupil has been immunized against MUMPS, rubeola and rubella, and if he has not been immunized against poliomyelitis and diphtheria, pertussis, and tetanus, he has received at least the first dose of the immunization sequence and presents written evidence to the pupil's building principal of each subsequent dose required to obtain immunization at the intervals prescribed by the director of health. Any student previously admitted under the "in process

of being so immunized" provision and who has not complied with the immunization intervals prescribed by the director of health shall be excluded from school on the fifteenth day of the following school year. Any student so excluded shall be readmitted upon showing evidence to the student's building principal of progress on the director of health's interval schedule.

(1) A pupil who has had natural rubeola, and presents a signed statement from his parent or physician to that effect, is not required to be immunized against rubeola.

(2) ~~A female pupil who has reached puberty is not required to be immunized against rubella~~ PUPIL WHO HAS HAD NATURAL MUMPS, AND PRESENTS A SIGNED STATEMENT FROM HIS PARENT OR PHYSICIAN TO THAT EFFECT, IS NOT REQUIRED TO BE IMMUNIZED AGAINST MUMPS.

(3) A pupil who presents a written statement of his parent or guardian in which the parent or guardian objects to the immunization for good cause, including religious convictions, is not required to be immunized.

(4) A child whose physician certifies in writing that such immunization against any disease is medically contraindicated is not required to be immunized against that disease. This section does not limit or impair the right of a board of education of a city, exempted village, or local school district to make and enforce rules to secure immunization against MUMPS, poliomyelitis, rubeola, rubella, diphtheria, pertussis, and tetanus of the pupils under its jurisdiction.

(B) Boards of health, legislative authorities of municipal corporations, and boards of township trustees on application of the board of education of the district or proper authority of any school affected by this section, shall provide at the public expense, without delay, the means of immunization against MUMPS, poliomyelitis, rubeola, rubella, diphtheria, pertussis, and tetanus to pupils who are not so provided by their parents or guardians.

Sec. 3323.05. The state board of education shall establish procedures to assure that handicapped children and their parents are guaranteed procedural safeguards in decisions under this chapter relating to the identification, evaluation, or educational placement of a handicapped child or the provision of education or related services under this chapter.

The procedures shall include, but need not be limited to:

(A) An opportunity for the parents to examine all relevant records with respect to identification, evaluation, or educational placement of the child, and to obtain at their own expense an independent educational evaluation of the child:

(B) Procedures to protect the rights of the child when the parents of the child are unknown or unavailable, or when the child is a ward of the state, including the assignment, in accordance with section 3323.051 of the Revised Code, of an individual to act as a surrogate for the parents;

(C) Prior written notice to the child's parents of any proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child, including notice of all procedures available under this section. The state board of education may establish procedures to provide for the written acknowledgment by the parent of a notice of a child's placement or change of placement. In cases when no written acknowledgment has been obtained, notice of placement or change of placement shall be made by certified mail. A parent's acknowledgment under this division does not negate his rights to present complaints and appeal a placement decision under this section.

(D) An opportunity for the child or his parents to present complaints with respect to the identification, evaluation, or educational placement of the child, or the provision of special education under this chapter to the superintendent of the school district of the child's residence. Upon presentation of a complaint, the superintendent shall review the case, may conduct an informal hearing, and shall notify all parties of his decision. Where the child is placed in a program operated by a county board of mental retardation and developmental disabilities or other educational agency, the superintendent shall consult with the administrator of the agency involved. Any party aggrieved by the decision of the superintendent may present a formal complaint in writing to the board of education.

(E) When a formal written complaint is received, an opportunity for the aggrieved party to receive a due process hearing conducted by an impartial hearing officer in accordance with standards and procedures adopted by the state board of education. No hearing shall be conducted by an employee of the board of education or any agency involved in the education or care of the child.

A party to a hearing under this division shall be accorded:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children;

(2) The right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) The right to a written or electronic verbatim record of such hearing;

(4) The right to written findings of fact and decisions.

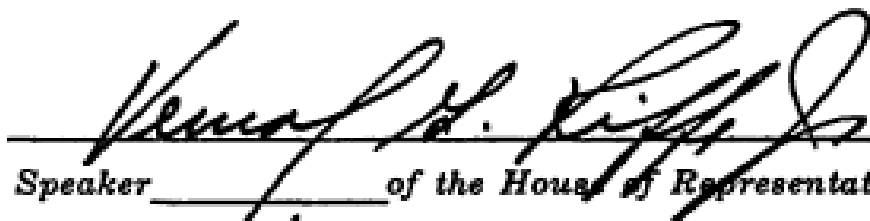
Am. H. B. No. 641


4343

(F) An opportunity for any party aggrieved by the findings and decision rendered in a hearing under division (E) of this section to appeal to the state board of education, which shall APPOINT A REVIEWING OFFICER WHO SHALL review the case and issue a final order. THE REVIEWING OFFICER SHALL BE APPOINTED AND SHALL REVIEW THE CASE IN ACCORDANCE WITH STANDARDS AND PROCEDURES ADOPTED BY THE BOARD.

Any party aggrieved by the final order of the ~~state board of education~~ REVIEWING OFFICER may appeal the final order to the court of common pleas of the county in which the child's school district of residence is located under Chapter 119. of the Revised Code.

SECTION 2. That existing sections 3313.671 and 3323.05 of the Revised Code are hereby repealed.

  
 Speaker \_\_\_\_\_ of the House of Representatives.

  
 President \_\_\_\_\_ of the Senate.

Passed March 29, 1984

Approved April 25, 1984

4:18pm  
  
 Governor.

1998 147 v S 153. Eff 9-30-98 (A)(3 & 4) (Effective September 30, 1998)

8186

(122nd General Assembly)  
(Amended Substitute Senate Bill Number 153)

## AN ACT

To amend sections 3313.671, 3701.13, and 3734.01 of the Revised Code to require, with certain exceptions, that students who begin kindergarten during or after the school year beginning in 1999 be immunized against Hepatitis B and to clarify the definition of "infectious wastes" in the Solid, Infectious, and Hazardous Waste Law through the inclusion of references to zoonotic diseases.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 3313.671, 3701.13, and 3734.01 of the Revised Code be amended to read as follows:

Sec. 3313.671. (A) Except as otherwise provided in this division, no pupil, at the time of ~~his~~ initial entry or at the beginning of each school year, to an elementary or high school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, shall be permitted to remain in school for more than fourteen days unless ~~he~~ THE PUPIL presents written evidence satisfactory to the person in charge of admission, that ~~he~~ THE PUPIL has been immunized by a method of immunization approved by the department of health pursuant to section 3701.13 of the Revised Code against mumps, poliomyelitis, diphtheria, pertussis, tetanus, rubeola, and rubella or is in the process of being so immunized. ALSO, EXCEPT AS PROVIDED IN THIS DIVISION, NO PUPIL WHO BEGINS KINDERGARTEN AT AN ELEMENTARY SCHOOL SUBJECT TO THE STATE BOARD OF EDUCATION'S MINIMUM STANDARDS DURING OR AFTER THE SCHOOL YEAR BEGINNING IN 1999 SHALL BE PERMITTED TO REMAIN IN SCHOOL FOR MORE THAN FOURTEEN DAYS UNLESS THE PUPIL PRESENTS WRITTEN EVIDENCE SATISFACTORY TO THE PERSON IN CHARGE OF ADMISSION THAT THE PUPIL HAS BEEN IMMUNIZED BY A DEPARTMENT OF HEALTH-APPROVED METHOD OF IMMUNIZATION AGAINST HEPATITIS B OR IS IN THE PROCESS OF BEING SO IMMUNIZED. "In the process of being so immunized" means the pupil

has been immunized against mumps, rubeola and rubella, and if ~~he~~ THE PUPIL has not been immunized against poliomyelitis ~~and~~, diphtheria, pertussis, ~~and~~ tetanus, ~~he~~ AND HEPATITIS B, THE PUPIL has received at least the first dose of the immunization sequence, and presents written evidence to the pupil's building principal of each subsequent dose required to obtain immunization at the intervals prescribed by the director of health. Any student previously admitted under the "in process of being so immunized" provision and who has not complied with the immunization intervals prescribed by the director of health shall be excluded from school on the fifteenth day of the following school year. Any student so excluded shall be readmitted upon showing evidence to the student's building principal of progress on the director of health's interval schedule.

(1) A pupil who has had natural rubeola, and presents a signed statement from ~~his~~ THE PUPIL'S parent or physician to that effect, is not required to be immunized against rubeola.

(2) A pupil who has had natural mumps, and presents a signed statement from ~~his~~ THE PUPIL'S parent or physician to that effect, is not required to be immunized against mumps.

(3) A pupil who presents a written statement of ~~his~~ THE PUPIL'S parent or guardian in which the parent or guardian objects to the immunization for good cause, including religious convictions, is not required to be immunized.

(4) A child whose physician certifies in writing that such immunization against any disease is medically contraindicated is not required to be immunized against that disease. This section does not limit or impair the right of a board of education of a city, exempted village, or local school district to make and enforce rules to secure immunization against mumps, poliomyelitis, rubeola, rubella, diphtheria, pertussis, ~~and~~ tetanus, AND HEPATITIS B of the pupils under its jurisdiction.

(B) Boards of health, legislative authorities of municipal corporations, and boards of township trustees on application of the board of education of the district or proper authority of any school affected by this section, shall provide at the public expense, without delay, the means of immunization against mumps, poliomyelitis, rubeola, rubella, diphtheria, pertussis, ~~and~~ tetanus, AND HEPATITIS B to pupils who are not so provided by their parents or guardians.

Sec. 3701.13. The department of health shall have supervision of all matters relating to the preservation of the life and health of the people and have supreme authority in matters of quarantine, which it may declare and enforce, when none exists, and modify, relax, or abolish, when it has been established. It may approve means of immunization against poliomyelitis, rubeola, diphtheria, rubella (German measles), pertussis, ~~and~~ tetanus, AND HEPATITIS B for the purpose of carrying out the provisions of section 3313.671 of the Revised Code. It may make special or standing orders or rules for preventing the use of fluoroscopes for nonmedical purposes which emit doses of radiation likely to be harmful to any person, for preventing the spread of contagious or infectious diseases, for governing the receipt and conveyance of remains of deceased persons, and for such other sanitary matters as are best controlled by a general rule. It may



150 v H 463, § 1, (Effective May 6, 2005)

5,833

(125th General Assembly)  
(Substitute House Bill Number 463)

## AN ACT

To amend sections 3313.67, 3313.671, and 3701.13 and to enact section 3701.134 of the Revised Code to require students to be immunized against chicken pox subject to certain exceptions.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 3313.67, 3313.671, and 3701.13 be amended and section 3701.134 of the Revised Code be enacted to read as follows:

Sec. 3313.67. (A) ~~The (1) Except as provided in division (A)(2) of this section, the~~ board of education of each city, exempted village, or local school district may make and enforce such rules to secure the immunization of, and to prevent the spread of communicable diseases among the pupils attending or eligible to attend the schools of the district, as in its opinion the safety and interest of the public require. ~~Boards~~

(2) A board of education shall not adopt rules under division (A)(1) of this section that are inconsistent with divisions (B) and (C) of section 3313.671 of the Revised Code.

~~(B) Boards~~ of health, legislative authorities of municipal corporations, and boards of township trustees, on application of the board of education of the district, at the public expense, without delay, shall provide the means of immunization to pupils who are not so provided by their parents or guardians.

~~(B)(C)~~ The board of education shall keep an immunization record for each pupil, available in writing to the pupil's parent or guardian upon request, which shall include:

(1) Immunizations against the diseases mentioned in division (A) of section 3313.671 of the Revised Code;

(2) Any tuberculin tests given pursuant to section 3313.71 of the Revised Code;

(3) Any other immunizations required by the board pursuant to division (A) of this section.

~~(C)(D)~~ Annually by the fifteenth day of October, the board shall report a summary, by school, of the immunization records of all initial entry pupils

Sub. H. B. No. 463

5,834

in the district to the director of health, on forms prescribed by the director.

Sec. 3313.671. (A)(1) Except as otherwise provided in ~~this division (B) of this section~~, no pupil, at the time of initial entry or at the beginning of each school year, to an elementary or high school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, shall be permitted to remain in school for more than fourteen days unless the pupil presents written evidence satisfactory to the person in charge of admission, that the pupil has been immunized by a method of immunization approved by the department of health pursuant to section 3701.13 of the Revised Code against mumps, poliomyelitis, diphtheria, pertussis, tetanus, rubeola, and rubella or is in the process of being so immunized. ~~Also, except~~

(2) ~~Except as provided in this division (B) of this section~~, no pupil who begins kindergarten at an elementary school subject to the state board of education's minimum standards ~~during or after the school year beginning in 1999~~ shall be permitted to remain in school for more than fourteen days unless the pupil presents written evidence satisfactory to the person in charge of admission that the pupil has been immunized by a department of health-approved method of immunization ~~against hepatitis B~~ or is in the process of being so immunized against both of the following:

(a) During or after the school year beginning in 1999, hepatitis B;

(b) During or after the school year beginning in 2006, chicken pox. "In

(3) As used in divisions (A)(1) and (2) of this section, "in the process of being so immunized" means the pupil has been immunized against mumps, rubeola and, rubella, and chicken pox, and if the pupil has not been immunized against poliomyelitis, diphtheria, pertussis, tetanus, and hepatitis B, the pupil has received at least the first dose of the immunization sequence, and presents written evidence to the pupil's building principal or chief administrative officer of each subsequent dose required to obtain immunization at the intervals prescribed by the director of health. Any student previously admitted under the "in process of being so immunized" provision and who has not complied with the immunization intervals prescribed by the director of health shall be excluded from school on the fifteenth day of the following school year. Any student so excluded shall be readmitted upon showing evidence to the student's building principal or chief administrative officer of progress on the director of health's interval schedule.

(B)(1) A pupil who has had natural rubeola, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against rubeola.

Sub. H. B. No. 463

5,835

(2) A pupil who has had natural mumps, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against mumps.

(3) A pupil who has had natural chicken pox, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against chicken pox.

(4) A pupil who presents a written statement of the pupil's parent or guardian in which the parent or guardian ~~objects~~ declines to the ~~immunization for good cause~~ have the pupil immunized for reasons of conscience, including religious convictions, is not required to be immunized.

~~(4)(5)~~ A child whose physician certifies in writing that such immunization against any disease is medically contraindicated is not required to be immunized against that disease. ~~This section does not limit or impair the right of a board of education of a city, exempted village, or local school district to make and enforce rules to secure immunization against mumps, poliomyelitis, rubeola, rubella, diphtheria, pertussis, tetanus, and hepatitis B of the pupils under its jurisdiction.~~

~~(B)(C)~~ As used in this division, "chicken pox epidemic" means the occurrence of cases of chicken pox in numbers greater than expected in the school's population or for a particular period of time.

Notwithstanding division (B) of this section, a school may deny admission to a pupil otherwise exempted from the chicken pox immunization requirement if the director of the state department of health notifies the school's principal or chief administrative officer that a chicken pox epidemic exists in the school's population. The denial of admission shall cease when the director notifies the principal or officer that the epidemic no longer exists.

The board of education or governing body of each school subject to this section shall adopt a policy that prescribes methods whereby the academic standing of a pupil who is denied admission during a chicken pox epidemic may be preserved.

(D) Boards of health, legislative authorities of municipal corporations, and boards of township trustees on application of the board of education of the district or proper authority of any school affected by this section, shall provide at the public expense, without delay, the means of immunization against mumps, poliomyelitis, rubeola, rubella, diphtheria, pertussis, tetanus, and hepatitis B to pupils who are not so provided by their parents or guardians.

Sec. 3701.13. The department of health shall have supervision of all

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OKLAHOMA STATUTES, ANNOTATED BY LEXISNEXIS (R)

\*\*\* Current through Chapter 23(End) of the First Extraordinary Session of the 54th Legislature (2013) \*\*\*

\*\*\* Annotations current through December 30, 2013 \*\*\*

TITLE 10. CHILDREN  
CHAPTER 18. OKLAHOMA CHILD CARE FACILITIES LICENSING ACT  
IMMUNIZATION OF CHILDREN

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10 Okl. St. § 413 (2013)

§ 413. Exemptions

Any minor child, through his or her parent or guardian, may submit to the health authority charged with the enforcement of the immunization laws, a certificate of a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or upon receipt of a written statement by the parent or guardian objecting to such immunizations because of religious or other reasons, then such child shall be exempt from the provisions of this act.

## OKLAHOMA STATUTES, ANNOTATED BY LEXISNEXIS (R)

\*\*\* Current through Chapter 23(End) of the First Extraordinary Session of the 54th Legislature (2013) \*\*\*

\*\*\* Annotations current through December 30, 2013 \*\*\*

TITLE 70. SCHOOLS  
DIVISION III. OTHER SCHOOL LAWS  
CHAPTER 15. HEALTH AND SAFETY  
IMMUNIZATION

[Go to the Oklahoma Code Archive Directory](#)

70 Okl. St. § 1210.192 (2013)

§ 1210.192. Exemptions

Any minor child, through the parent, guardian, or legal custodian of the child, may submit to the health authority charged with the enforcement of the immunization laws of this state:

1. A certificate of a licensed physician as defined in Section 725.2 of Title 59 of the Oklahoma Statutes, stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or

2. A written statement by the parent, guardian or legal custodian of the child objecting to immunization of the child; whereupon the child shall be exempt from the immunization laws of this state.

History: Added by Laws 1970, c. 225, § 2, emerg. eff. April 15, 1970. Amended by Laws 1998, c. 181, § 4, eff. Nov. 1, 1998.

Added by Laws 1970, c. 225, § 2, (emerg. eff. April 15, 1970)

SECOND REGULAR SESSION—1970

Ch. 225

SCHOOLS—DISEASES—IMMUNIZATION

CHAPTER 225 \*

H.B.No.1203

AN ACT RELATING TO SCHOOLS; PRESCRIBING CERTIFICATION THAT A CHILD HAS BEEN IMMUNIZED AGAINST CERTAIN DISEASES AND HAS BEEN TESTED FOR AND IS FREE OF CONTAGIOUS TUBERCULOSIS AS A CONDITION FOR HIS INITIAL ADMISSION IN A SCHOOL; PROVIDING THAT IF PARENTS OF A CHILD ARE UNABLE TO PAY FOR SERVICES INVOLVED, MATERIALS FOR SUCH SERVICES SHALL BE PROVIDED BY THE STATE DEPARTMENT OF PUBLIC HEALTH; PROHIBITING THOSE WITH CONTAGIOUS DISEASES FROM ATTENDING SCHOOL; AND DECLARING AN EMERGENCY.

*Be it enacted by the People of the State of Oklahoma:*

SECTION 1. Certification as to immunization of child against certain diseases—Tuberculosis tests

(a) No minor child shall be admitted for the first time to any public, private, or parochial elementary school operating in this state unless such child can present to the appropriate school authorities certification from a licensed physician, or authorized representative of the State Department of Public Health, that such child has received a test, or tests, for tuberculosis and is free from contagious form of this disease, and he has received, or is in the process of receiving, immunizations against diphtheria, pertussis, tetanus, measles (rubeola), (rubella), poliomyelitis, and smallpox, or is likely to be immune as a result of the disease.

(b) Immunization tests required, and the manner and frequency of their administration, as prescribed by the State Board of Health, shall conform to recognized standard medical practices in the state. The State Department of Public Health shall supervise and secure the enforcement of the required immunization program.

(c) The list of diseases may be revised whenever the State Board of Health deems it necessary, and the local health departments may revise their rules and regulations accordingly. Rules and regulations for administering the law shall be established by the State Board of Health.

SECTION 2. Exemptions

Any minor child, through his parent or guardian, may submit to the health authority charged with the enforcement of the immunization laws a certificate of a licensed physician, stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or upon receipt of a written statement by the parent or guardian objecting to such tests or immunizations and said child shall be exempt from the provisions of this act.

SECTION 3. Administration—Parents unable to pay

The test for tuberculosis and immunizations will be administered by a licensed physician, someone under his direction, or public health department. If the parents or guardians are unable to pay, the State Department of Public Health shall provide, without charge, the test for tuberculosis and the immunization materials required by this act to such pupils

6. 70 O.S.Supp.1970, §§ 1210.191 to 1210.194.

## Ch. 225 LAWS THIRTY-SECOND LEGISLATURE

as are not provided therewith by the parents or guardians and who have not been exempted on religious or medical grounds or by filing objections by the parents.

### SECTION 4. Children afflicted with contagious disease

Any child afflicted with a contagious disease may be prohibited from attending a public, private or parochial school until such time as he is free from such contagious disease.

Approved April 15, 1970. Emergency.

## CHILDREN—QUESTIONING—DEFINITIONS

### CHAPTER 226

#### H.B.No.1292

AN ACT RELATING TO CHILDREN; AMENDING SECTION 109, CHAPTER 282, O.S.L.1968 (10 O.S.SUPP.1969, § 1109); PERTAINING TO THE QUESTIONING OF CHILDREN BY LAW ENFORCEMENT OFFICERS AND OTHERS; DEFINING TERMS; AND DIRECTING CODIFICATION OF DEFINITIONS.

*Be it enacted by the People of the State of Oklahoma:*

SECTION 1. Section 109, Chapter 282, O.S.L.1968 (10 O.S.Supp.1969, § 1109), is amended to read as follows:

#### § 1109. Questioning of children—Counsel—Prosecution of District Attorney

(a) No information gained by questioning a child shall be admissible into evidence against the child unless the questioning about any alleged offense by any law enforcement officer or investigative agency, or employee of the court, or the Department is done in the presence of said child's parents, guardian, attorney, or the legal custodian of the child, and not until the child and his parents, or guardian, or other legal custodian shall be fully advised of their constitutional and legal rights, including the right to a jury trial as herein provided, and the right to be represented by counsel at every stage of the proceedings, and the right to have counsel appointed by the court and paid out of the court fund if the parties are without sufficient financial means; provided, however, that no legal aid or other public or charitable legal service shall make claim for compensation as contemplated herein.

(b) If the child or his parents, guardian, or other legal custodian requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court if the child is being proceeded against as a delinquent child, or a child in need of supervision, or if termination of parental rights is a possible remedy, provided that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the child or of other parties.

(c) Upon the request of the court, the District Attorney shall prepare and prosecute any case or proceeding within the purview of this act.

#### SECTION 2. Child and delinquent child defined <sup>7</sup>

As used in Title 10 of the Oklahoma Statutes, §§ 1101 et seq., the term "child" means any person under the age of eighteen (18) years. The

7. 10 O.S.Supp.1970, § 1101A.

Amended by Laws 1998, c. 181, § 4, (Effective Nov. 1, 1998)

SECOND REGULAR SESSION—1998

Ch. 181, § 1

**CHIROPRACTIC—LICENSURE REQUIREMENTS—  
FEES—CERTIFICATES**

**CHAPTER 181**

H.B. No. 2917

An Act relating to chiropractic; amending 59 O.S. 1991, Sections 161.11, as amended by Section 6, Chapter 390, O.S.L. 1994, 161.12, as amended by Section 1, Chapter 90, O.S.L. 1997, and 161.15 (59 O.S. Supp. 1997, Sections 161.11 and 161.12), which relate to the Board of Chiropractic Examiners; modifying certain fees; specifying reinstatement fee and renewal fees; modifying licensure requirements; requiring certain fees and information for certain renewals and reinstatements; amending 70 O.S. 1991, Section 1210.192, which relates to certain certificates and exemptions; adding to list of type of certificates which can be signed by doctors of chiropractic; clarifying language relating to certificates that can be submitted; and providing an effective date.

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:**

**SECTION 1. AMENDATORY** 59 O.S. 1991, Section 161.11, as amended by Section 6, Chapter 390, O.S.L. 1994 (59 O.S. Supp. 1997, Section 161.11), is amended to read as follows:

Section 161.11 A. Except as provided in subsection B of this section, every person holding an original license to practice chiropractic in this state shall pay to the Board of Chiropractic Examiners, on or before the first day of January of each year, a renewal license fee of ~~One Hundred Fifty Dollars (\$150.00)~~ One Hundred Twenty-five Dollars (\$125.00). In addition, each licensee shall present to the Board satisfactory evidence that during the preceding year the licensee attended ~~at least~~ twelve (12) hours of a continuing education program administered by a chiropractic association whose constitution, bylaws and continuing education program have been approved by the Board. Three (3) hours per year of continuing education credit may be obtained by attending a national chiropractic association meeting. The Board may, in its discretion, waive the continuing education requirement for a licensee if the licensee has presented to the Board satisfactory evidence that said licensee was unavoidably prevented, by illness or otherwise, from attending such a continuing education program.

B. The Board is authorized, but is not required, to establish a reduced renewal license fee, in an amount less than ~~One Hundred Fifty Dollars (\$150.00)~~ One Hundred Twenty-five Dollars (\$125.00), for each of the following classes of licensees:

1. Persons who hold an original license, but who are sixty-five (65) years of age or older and are not actively engaged in the practice of chiropractic in this state; and

2. Persons who hold an original license, but who are nonresidents of Oklahoma and are not actively engaged in the practice of chiropractic in this state.

Each such licensee shall file a statement with the Board that he is not actively engaged in the practice of chiropractic in this state, and shall not engage in the practice of chiropractic in this state during the succeeding calendar year. Unless otherwise determined by the Board, each such licensee must comply with the other requirements of subsection A of this section in order to receive a renewal license.

Additions are indicated by underline; deletions by strikethrough

575



## Ch. 181, § 3

## LAWS FORTY-SIXTH LEGISLATURE

Section 161.15 Doctors of chiropractic shall be bound by all the provisions of the Oklahoma Public Health Code that apply to them, and shall be qualified to sign death;

1. ~~Death certificates, and all pursuant to Section 1-317 of Title 63 of the Oklahoma Statutes; and~~

2. ~~All other certificates, including those relating to public health, the same as doctors of medicine and surgery and doctors of osteopathy osteopathic medicine, and with like effect.~~

SECTION 4. AMENDATORY 70 O.S. 1991, Section 1210.192, is amended to read as follows:

Section 1210.192 Any minor child, through his the parent or, guardian, or legal custodian of the child, may submit to the health authority charged with the enforcement of the immunization laws a of this state:

1. A certificate of a licensed physician as defined in Section 725.2 of Title 59 of the Oklahoma Statutes, stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or upon receipt of a

2. A written statement by the parent or, guardian or legal custodian of the child objecting to such tests or immunizations and said immunization of the child; whereupon the child shall be exempt from the provisions of this act immunization laws of this state.

SECTION 5. This act shall become effective November 1, 1998.

Approved April 29, 1998.

## BAIL BONDS—FORFEITURES—SURRENDER OF DEFENDANT

## CHAPTER 182

H.B. No. 3193

An Act relating to bail bonds; amending 59 O.S. 1991, Section 1332, as last amended by Section 123, Chapter 418, O.S.L. 1997 (59 O.S. Supp. 1997, Section 1332), which relates to forfeitures; clarifying reference; stating exception to certain requirement for mailing; authorizing certain persons to surrender defendant; providing for codification; and declaring an emergency.

*BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:*

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1332, as last amended by Section 123, Chapter 418, O.S.L. 1997 (59 O.S. Supp. 1997, Section 1332), is amended to read as follows:

Section 1332. A. If there is a breach of an undertaking, the court before which the cause is pending shall declare the undertaking and any money, property, or securities that have been deposited as bail, forfeited on the day the defendant failed to appear. In the event of the forfeiture of a bail bond the clerk of the trial court shall, within thirty (30) days after the forfeiture, by mail with return receipt requested, mail a true and correct copy of the order and judgment of forfeiture to the bondsman, and if applicable, the insurer, whose risk it is, and keep at least one copy of the order and judgment of forfeiture on file; provided, the clerk shall not be required to mail the order and judgment of forfeiture to the bondsman or insurer if, within fifteen (15) days from the date of forfeiture, the defendant is returned to custody the bond is reinstated by the court with the

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\*\*\* Current through the 2012 Regular Session and 2012 Special Session \*\*\*

\*\*\* Annotations current through November 16, 2011 \*\*\*

Title 36 Public Health and Safety  
Chapter 433- Disease and Condition Control; Mass Gatherings; Indoor Air  
Disease Control in Schools

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**ORS § 433.267** (2012)

**Legislative Alert:**

[LEXSEE 2013 Ore. ALS 516](#) -- See section 1.

[LEXSEE 2013 Ore. ALS 332](#) -- See sections 1 and 2.

**433.267** Immunization of school children; rules; exceptions; effect of failure to comply.

(1) As a condition of attendance in any school or children's facility in this state, every child through grade 12 shall submit to the administrator one of the following statements unless the school or facility which the child attends already has on file a record which indicates that the child has received immunizations against the restrictable diseases prescribed by rules of the Oregon Health Authority as provided in [ORS 433.273](#):

(a) A statement signed by the parent, a practitioner of the healing arts who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the child has received;

(b) A statement signed by a physician or a representative of the local health department that the child should be exempted from receiving specified immunization because of indicated medical diagnosis; or

(c) A statement signed by the parent that the child has not been immunized as described in paragraph (a) of this subsection because the child is being

reared as an adherent to a religion the teachings of which are opposed to such immunization.

(2) (a) A newly entering child or a transferring child shall be required to submit the statement described in subsection (1) of this section prior to attending the school or facility.

(b) Notwithstanding paragraph (a) of this subsection, a child transferring from a school in the United States must submit the statement required by subsection (1) of this section not later than the exclusion date set by rule of the authority.

(3) Persons who have been emancipated pursuant to ORS 419B.558 or who have reached the age of consent for medical care pursuant to ORS 109.640 may sign those statements on their own behalf otherwise requiring the signatures of parents under subsection (1) of this section.

(4) The administrator shall conduct a primary evaluation of the records submitted pursuant to subsection (1) of this section to determine whether the child is entitled to begin attendance by reason of having submitted a statement that complies with the requirements of subsection (1) of this section.

(5) If the records do not meet the initial minimum requirements established by rule, the child may not be allowed to attend until the requirements are met. If the records meet the initial minimum requirements, the child shall be allowed to attend.

(6) At the time specified by the authority by rule, records for children meeting the initial minimum requirements and records previously on file shall be reviewed for completion of requirements by the administrator to determine whether the child is entitled to continue in attendance. If the records do not comply, the administrator shall notify the local health department and shall transmit any records concerning the child's immunization status to the local health department.

(7) The local health department shall provide for a secondary evaluation of the records to determine whether the child should be excluded for noncompliance with the requirements stated in subsection (1)(a) or (b) of this section. If the child is determined to be in noncompliance, the local health department shall issue an exclusion order and shall send copies of the order to the parent or the person who is emancipated or has reached the age of majority and the administrator. On the effective date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

(8) The administrator shall readmit the child to the school or facility when in the judgment of the local health department the child is in compliance with the requirements of this section.

(9) The administrator shall be responsible for updating the statement described in subsection (1)(a) of this section as necessary to reflect the current status of the immunization of the child and the time at which the child comes into compliance with immunizations against the restrictable diseases prescribed by rules of the authority pursuant to ORS 433.273.

(10) Nothing in this section shall be construed as relieving agencies, in addition to school districts, which are involved in the maintenance and evaluation of immunization records on April 27, 1981, from continuing responsibility for these activities.

(11) All statements required by this section shall be on forms approved or provided by the authority.

(12) In lieu of signed statements from practitioners of the healing arts, the authority may accept immunization record updates using practitioner documented immunization records generated by electronic means or on unsigned practitioner letterhead if the authority determines such records are accurate.

(13) As used in this section:

(a) "Newly entering child" means a child who is initially attending:

- (A) A facility in this state;
- (B) A school at the entry grade level;
- (C) Either a school at any grade level or a facility from homeschooling; or
- (D) A school at any grade level or a facility after entering the United

States from another country.

(b) "Transferring child" means a child moving from:

- (A) One facility to another facility;
- (B) One school in this state to another school in this state when the move is not the result of a normal progression of grade level; or
- (C) A school in another state to a school in this state.

**HISTORY:** 1973 c.566 § 2; 1977 c.457 § 1; 1981 c.78 § 4; 1991 c.255 § 3; 1993 c.546 § 139; 2001 c.900 § 158; 2005 c.343 § 3; 2009 c.595 § 651.

1981 c.78 § 4

## OREGON LAWS 1981

Chap. 78

employment status of each recipient of unemployment insurance benefits and a statement of such recipient's right to further compensation under this chapter.

(3) Make available, upon request, to officers and employees of the United States Department of Agriculture and any state's food stamp agency, information to be used for determining an individual's eligibility for benefits, or the amount of benefits, under the food stamp program established under the Food Stamp Act of 1977. The information provided shall be confidential and shall not be used for any other purpose. Costs of furnishing information under this section shall be borne by the United States Department of Agriculture.

**SECTION 17.** Sections 14 and 15 of this Act first become operative with the reports required to be filed for calendar quarters beginning after December 31, 1981.

**SECTION 18.** This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and sections 10 and 16 of this Act take effect June 28, 1981, and sections 1

Approved by the Governor April 24, 1981  
Filed in the office of Secretary of State April 24, 1981

**CHAPTER 78****AN ACT**

[HB 2139]

Relating to public health; creating new provisions; amending ORS 433.255, 433.260, 433.263, 433.267, 433.269 and 433.273; repealing ORS 433.275; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

Section 1. ORS 433.263 is amended to read:  
433.263. As used in ORS [433.263] 433.255 to [433.275] 433.273:

(1) "Administrator" means the principal or other person having general control and supervision of a school or certified day care facility.

(2) "Certified day care facility" or "facility" means a day care facility caring for six or more children and certified pursuant to ORS 418.805 to 418.885.

[(1)] (3) "Local health department" or "department" means the district[,] or county [or city] board of health, public health officer, public health administrator or health department having jurisdiction within the area.

(4) "Parent" means a parent or guardian of a child or any adult responsible for the child.

[(2)] (5) "Physician" means a physician licensed by the Board of Medical Examiners for the State of Oregon or by the Naturopathic Board of Examiners or a physician similarly licensed by another state in which the physician practices or a commissioned medical officer of the Armed Forces or Public Health Service of the United States.

(6) "School" means a public, private or parochial school.

[(3)] "School administrator" means the principal or other such person having general control and supervision of the school.]

Section 2. ORS 433.255 is amended to read:

433.255. Except in strict conformity with the rules of the Health Division, no [pupil, teacher] child or [school] employe shall be permitted to [attend] be in any [private, parochial or public] school or facility when:

(1) [when] Afflicted with any communicable disease or condition;[, nor shall they be permitted to attend such school]

(2) From any house in which exists any communicable disease or condition; or[, except in strict conformity with the rules of the division.]

(3) A child has been excluded as provided in ORS 433.267 (5).

Section 3. ORS 433.260 is amended to read:

433.260. (1) Whenever any [school principal or teacher] administrator [in any private, parochial or public school] has reason to suspect that any [pupil or school employe] child or employe is afflicted with or has been exposed to any communicable disease or condition required by the rules of the Health Division to be excluded from a school or facility, [such principal or teacher] the administrator shall send such person home and report the occurrence to the local health [officer] department by the most direct means available.

(2) Any person [so] excluded under subsection (1) of this section shall not be permitted to [again attend] be in the school or facility until [he] the person presents a certificate from a physician [licensed by the Board of Medical Examiners for the State of Oregon or by the Naturopathic Board of Examiners] stating that [he] the person is not afflicted with nor a carrier of any communicable disease or condition.

Section 4. ORS 433.267 is amended to read:

433.267. (1) [Prior to and] As a condition of [his initial enrollment] attendance in any [public, private or parochial] school [of] or facility in this state, every child [between five and 14 years of age] through grade 12 shall submit to the [school] administrator one of the following statements unless the school or facility which the child attends already has on file a record which indicates that the child has received immunizations against the communicable diseases prescribed by rules of the Health Division as provided in ORS 433.273:

[(1)] (a) A statement signed by [a physician or a representative of the local health department] the parent certifying that [he] the child has received [an initial immunization and prescribed reinforcing immunization] immunizations against the communicable diseases [pursuant to] prescribed by rules of the Health Division as provided in ORS 433.273; [or]

(b) A statement signed by the parent, a practitioner of the healing arts who has within the



scope of the practitioner's license the authority to administer immunizations or a representative of the local health department that describes the manner in which the child has begun the immunization process as prescribed by rules of the Health Division pursuant to ORS 433.273;

[(2)] (c) A statement signed by a physician or a representative of the local health department that *[the physical condition of the child is such that the immunization would seriously endanger his health; or]* the child should be exempted from receiving specified immunization because of indicated medical diagnosis;

[(3)] (d) A statement signed by *[his parents or guardian]* the parent that *[he]* the child has not been immunized as described in paragraph (a) of subsection (1) of this section because *[he]* the child is being reared as an adherent to a religion the teachings of which are opposed to such immunization; or

[(4)] (e) A statement signed by the parent *[or guardian]* of a child *[entering the]* transferring to a school or facility from *[outside the state]* another school district or facility that *[he]* the parent will *[arrange to]* have *[necessary immunization initiated by a physician or local health department within 30 days.]* records required by paragraphs (a) to (d) of this subsection for the child sent to the school or facility within 30 days of initial enrollment of the child therein.

(2) Children who have been emancipated pursuant to ORS 109.565 or who have reached the age of majority as provided in ORS 109.510 may sign those statements on their own behalf otherwise requiring the signatures of parents under subsection (1) of this section.

(3) The administration shall conduct a primary evaluation of the records previously on file or newly submitted pursuant to subsection (1) of this section to determine whether the child is entitled to enroll or continue in attendance by reason of having submitted a statement that complies with the requirements of subsection (1) of this section.

(4) If the records do not comply or are not received within 30 days as provided in paragraph (e) of subsection (1) of this section, the administrator shall notify the local health department and shall transmit any records concerning the child's immunization status to the department.

(5) The department shall provide for a secondary evaluation of the records to determine whether the child should be excluded for noncompliance with the requirements stated in paragraph (a) or (e) of subsection (1) of this section. If the child is determined to be in noncompliance, the department shall issue an exclusion order and shall send copies of the order to the parent and the administrator. On the effective date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

(6) The administrator shall readmit the child to the school or facility when in the judgment of the local health department the child is in compliance with the requirements of this section. The department shall return the records of the child who has been readmitted to the appropriate school or facility.

(7) The administrator shall be responsible for updating the statement described in paragraph (b) of subsection (1) of this section as necessary to reflect the current status of the immunization of the child and the time at which the child comes into compliance with immunizations against the communicable diseases prescribed by rules of the Health Division pursuant to ORS 433.273.

(8) Nothing in this section shall be construed as relieving agencies, in addition to school districts, which are involved in the maintenance and evaluation of immunization records on the effective date of this 1981 Act from continuing responsibility for these activities.

(9) All statements required by this section shall be on forms approved or provided by the Health Division.

Section 5. ORS 433.269 is amended to read:

433.269. (1) Local health departments shall make available immunizations to be administered under the direction of the local health officer in convenient areas *[convenient to the student free of charge to those children who are unable to acquire them from other physicians]*. No child shall be refused service because of inability to pay.

(2) The local health department, and all schools and facilities shall report annually to the Health Division as specified in the rules of the Health Division on the number of children in the area served who are susceptible to communicable disease by reason of noncompliance. A child exempted under ORS 433.267 shall be considered to be susceptible.

(3) The local health department shall maintain records of children who are excluded from schools and facilities. Schools and facilities shall maintain records of children in attendance conditionally because of incomplete immunization schedules and children exempted under ORS 433.267.

Section 6. ORS 433.273 is amended to read:

433.273. The Health Division shall adopt rules pertaining to *[the communicable diseases, including rubella, for which immunization is required and the approved means of immunization and indicated reinforcing immunization under ORS 433.267, including recommended optimum ages for administration of such immunizations.]* the implementation of ORS 433.255 to 433.273, which shall include, but need not be limited to:

(1) The required immunization against diseases, including rubella, considered to be dangerous to the public health under ORS 433.267;

(2) The time schedule for immunization;

(3) The approved means of immunization;

(4) The procedures whereby students may be excluded from attendance in schools or facilities, including service of notice to parents; and

(5) The manner in which immunization records for children are established, evaluated and maintained.

**SECTION 7.** Sections 8 to 11 of this Act are added to and made a part of ORS 433.255 to 433.273.

**SECTION 8.** (1) The Assistant Director for Health shall appoint a committee to advise the Health Division on the administration of the provisions of ORS 433.255 to 433.273, including the adoption of rules pursuant to ORS 433.269 (2), 433.273 and sections 12 and 14 of this 1981 Act.

(2) Members of the committee appointed pursuant to subsection (1) of this section shall include, but need not be limited to, representatives of the Health Division, the Department of Education, public, private and parochial schools, education service districts, certified day care facilities, local health departments, the boards of county commissioners or county courts and the public.

**SECTION 9.** In adopting this 1981 Act, the Legislative Assembly recognizes the obligation of parents to have their children properly immunized and to provide to schools and facilities accurate records of immunization.

**SECTION 10.** Notwithstanding ORS 339.030 (8), nothing in ORS 433.255 to 433.273 operates to remove parental liability under compulsory attendance laws.

**SECTION 11.** Nothing in ORS 179.505, 192.525, 192.530 or 336.185 to 336.215 operates to prevent:

(1) Inspection by or release to administrators by local health departments of information relating to the status of a child's immunization against communicable diseases without the consent of the child or the parent.

(2) Local health departments from releasing information concerning the status of a child's immunization against communicable diseases by telephone to the parent, administrators and public health officials.

**SECTION 12.** Local health departments shall offer at least one immunization clinic in each high school attendance area or other area convenient to the students and agreeable to the affected departments, school districts and facilities prior to the date of implementation as provided in section 14 of this Act. No child shall be refused service at such clinics because of inability to pay.

**SECTION 13.** Notwithstanding ORS 431.170 (2), during the 1981-1983 biennium, the Health Division shall provide free of charge to local health departments:

(1) The necessary resources in personnel and supplies for the implementation of ORS 433.255 to 433.273, if a department is financially unable to do so

and requests the assistance of the Health Division; and

(2) Vaccines required for the implementation of ORS 433.255 to 433.273.

**SECTION 14.** The provisions of ORS 433.267 (5) shall be implemented as soon as practicable, in accordance with rules adopted by the Health Division, but in no case later than August 15, 1982.

**SECTION 15.** ORS 433.275 is repealed on August 15, 1982.

**SECTION 16.** This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

Approved by the Governor April 27, 1981

Filed in the office of Secretary of State April 27, 1981

## CHAPTER 79

### AN ACT

[ SB 3 ]

Relating to transportation; creating new provisions; and amending ORS 767.170.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Section 2 of this Act is added to and made a part of ORS chapter 767.

**SECTION 2.** The commissioner may grant temporary authority for a contract carrier or common carrier to provide transport services. Temporary authority granted under this section is subject to all of the following:

(1) The commissioner shall not grant temporary authority under this section if the commissioner determines that the transportation service competes with either a transportation service provided by an existing carrier or a transportation service proposed by another application before the commissioner.

(2) An application for authority under this section is not subject to protest under ORS 767.135 before issuance, but the commissioner shall provide for protest and hearing under ORS 767.135 within 90 days after temporary authority is issued under this section. The commissioner shall cancel immediately any temporary authority granted under this section if the commissioner determines at hearing that the authority does not comply with requirements for grant of authority under ORS 767.135.

(3) The commissioner shall not grant temporary authority under this section for an initial period of more than six months.

(4) The commissioner may renew temporary authority granted under this section one time for a period of not more than six months.

(5) A person who is granted temporary authority under this section may apply for permanent authority to provide the transportation after the expiration of the temporary authority by making application in the

## 1991 c.255 § 3 (Approved June 17, 1991)

Chap. 255

OREGON LAWS 1991

**SECTION 1.** In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Education, out of the General Fund, for the fiscal year beginning July 1, 1991, the sum of \$805 million for the Public School System Support Fund.

**SECTION 2.** This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect July 1, 1991.

Approved by the Governor June 17, 1991

Filed in the office of the Secretary of State June 17, 1991

## CHAPTER 255

## AN ACT

HB 2105

Relating to immunization; creating new provisions; and amending ORS 433.235, 433.245, 433.255, 433.260, 433.267, 433.269, 433.273 and 433.280.

Be It Enacted by the People of the State of Oregon:

**SECTION 1.** ORS 433.235 is amended to read: 433.235. As used in ORS 433.235 to 433.280:

(1) "Administrator" means the principal or other person having general control and supervision of a school or [certified day care] children's facility.

(2) "[Certified day care] Children's facility" or "facility" means:

(a) A certified day care facility [caring for six or more children and certified pursuant to] as described in ORS 418.805 to 418.885, except as exempted by rule of the Health Division; or

(b) A program operated by, or sharing the premises with, a certified day care facility, school or post-secondary institution where care is provided to children, six weeks of age to kindergarten entry, except as exempted by rule of the Health Division; or

(c) A program providing day care or educational services to children, six weeks of age to kindergarten entry, in a residential or nonresidential setting, except as exempted by rule of the Health Division.

(3) "Local health department" or "department" means the district or county board of health, public health officer, public health administrator or health department having jurisdiction within the area.

(4) "Parent" means a parent or guardian of a child or any adult responsible for the child.

(5) "Physician" means a physician licensed by the Board of Medical Examiners for the State of Oregon or by the Naturopathic Board of Examiners or a physician similarly licensed by another state or country in which the physician practices or a commissioned medical officer of the Armed Forces or Public Health Service of the United States.

(6) "School" means a public, private or parochial school offering kindergarten through grade 12 or

any part thereof, except as exempted by rule of the Health Division.

**SECTION 2.** ORS 433.245 is amended to read:

433.245. (1) The Assistant Director for Health shall appoint a committee to advise the Health Division on the administration of the provisions of ORS 433.235 to 433.280, including the adoption of rules pursuant to ORS 433.269 (2), 433.273 and sections 10 and 11 of this 1991 Act [12 and 14, chapter 78, Oregon Laws 1981].

(2) Members of the committee appointed pursuant to subsection (1) of this section shall include, but need not be limited to, representatives of the Health Division, the Department of Education, public, private and parochial schools, children's facilities, institutions of post-secondary education, education service districts, [certified day care facilities,] local health departments, the boards of county commissioners or county courts and the public.

**SECTION 3.** ORS 433.267 is amended to read:

433.267. (1) As a condition of attendance in any school or children's facility in this state, every child through grade 12 shall submit to the administrator one of the following statements unless the school or facility which the child attends already has on file a record which indicates that the child has received immunizations against the [communicable] restrictable diseases prescribed by rules of the Health Division as provided in ORS 433.273:

(a) A statement signed by the parent, a practitioner of the healing arts who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the child has received [certifying that the child has received immunizations against the communicable diseases prescribed by rules of the Health Division as provided in ORS 433.273];

[(b) A statement signed by the parent, a practitioner of the healing arts who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department that describes the manner in which the child has begun the immunization process as prescribed by rules of the Health Division pursuant to ORS 433.273];

[(c) (b) A statement signed by a physician or a representative of the local health department that the child should be exempted from receiving specified immunization because of indicated medical diagnosis;

[(d)] (c) A statement signed by the parent that the child has not been immunized as described in paragraph (a) of this subsection [(1) of this section] because the child is being reared as an adherent to a religion the teachings of which are opposed to such immunization; or

[(e)] (d) A statement signed by the parent of a child transferring to a school or facility from another school [district] or facility that the parent will



have records required by paragraphs (a) to [(d)] (c) of this subsection for the child sent to the school or facility within 30 days of initial [enrollment] attendance of the child therein. The statement shall be accompanied by a presigned exclusion order from the local health department to be used as described in subsection (6) of this section.

(2) A child shall be required to submit the statement described in subsection (1) of this section prior to attending the school or facility.

[(2) Children] (3) Persons who have been emancipated pursuant to ORS 109.565 or who have reached the age of majority as provided in ORS 109.510 or 109.520 may sign those statements on their own behalf otherwise requiring the signatures of parents under subsection (1) of this section.

[(3)] (4) The [administration] administrator shall conduct a primary evaluation of the records [previously on file or newly] submitted pursuant to subsection (1) of this section to determine whether the child is entitled to [enroll or continue in attendance] begin attendance by reason of having submitted a statement that complies with the requirements of subsection (1) of this section.

[(4) If the records do not comply or are not received within 30 days as provided in paragraph (e) of subsection (1) of this section, the administrator shall notify the local health department and shall transmit any records concerning the child's immunization status to the department.]

(5) If the records do not meet the initial minimum requirements established by rule, the child shall not be allowed to attend until the requirements are met. If the records meet the initial minimum requirements, the child shall be allowed to attend.

(6) If the records are not received within 30 days, as provided in paragraph (d) of subsection (1) of this section, the administrator shall enforce the presigned exclusion order and exclude the child in accordance with a time schedule established by rule of the Health Division.

(7) At the time specified by the Health Division by rule, records for children meeting the initial minimum requirements and records previously on file shall be reviewed for completion of requirements by the administrator to determine whether the child is entitled to continue in attendance. If the records do not comply, the administrator shall notify the local health department and shall transmit any records concerning the child's immunization status to the department.

[(5)] (8) The department shall provide for a secondary evaluation of the records to determine whether the child should be excluded for noncompliance with the requirements stated in paragraph (a), (b) or [(e)] (d) of subsection (1) of this section. If the child is determined to be in noncompliance, the department shall issue an exclusion order and shall send copies of the order to the parent or the person who is emancipated or has reached the age of majority and the administrator. On the effective

date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

[(6)] (9) The administrator shall readmit the child to the school or facility when in the judgment of the local health department the child is in compliance with the requirements of this section. [The department shall return the records of the child who has been readmitted to the appropriate school or facility.]

[(7)] (10) The administrator shall be responsible for updating the statement described in paragraph [(b)] (a) of subsection (1) of this section as necessary to reflect the current status of the immunization of the child and the time at which the child comes into compliance with immunizations against the [communicable] restrictable diseases prescribed by rules of the Health Division pursuant to ORS 433.273.

[(8)] (11) Nothing in this section shall be construed as relieving agencies, in addition to school districts, which are involved in the maintenance and evaluation of immunization records on April 27, 1981, from continuing responsibility for these activities.

[(9)] (12) All statements required by this section shall be on forms approved or provided by the Health Division.

(13) In lieu of signed statements from practitioners of the healing arts, the division may accept immunization record updates using practitioner documented immunization records generated by electronic means or on practitioner letterhead but unsigned, if the division determines such records are accurate.

#### SECTION 4. ORS 433.255 is amended to read:

433.255. Except in strict conformity with the rules of the Health Division, no child or employee shall be permitted to be in any school or children's facility when:

(1) That child or employee has any restrictable [communicable] disease [or condition];

(2) That child or employee comes from any house in which exists any restrictable [communicable] disease [or condition]; or

(3) [A] That child has been excluded as provided in ORS 433.267 (5) or (8).

#### SECTION 5. ORS 433.260 is amended to read:

433.260. (1) Whenever any administrator has reason to suspect that any child or employee has or has been exposed to any restrictable [communicable] disease as prescribed by rules of the Health Division pursuant to ORS 433.273 [or condition] required by the rules of the Health Division to be excluded from a school or children's facility, the administrator shall send such person home and, if the disease is one that must be reported to the Health Division, report the occurrence to the local health department by the most direct means available.

(2) Any person excluded under subsection (1) of this section shall not be permitted to be in the school or facility until the person presents a certificate from a physician, local health department nurse or school nurse stating that the person does not have or is not a carrier of any **restrictable** [communicable] disease [or condition].

**SECTION 6.** ORS 433.269 is amended to read:

433.269. (1) Local health departments shall make available immunizations to be administered under the direction of the local health officer in convenient areas and at convenient times. No [child] person shall be refused service because of inability to pay.

(2) The local health department[,] and all schools and children's facilities shall report annually to the Health Division as specified in the rules of the Health Division on the number of children in the area served and those children who are susceptible to **restrictable** [communicable] disease as prescribed by rules of the Health Division pursuant to ORS 433.273 by reason of noncompliance. A child exempted under ORS 433.267 shall be considered to be susceptible.

(3) [The local health department shall maintain records of children who are excluded from schools and facilities. Schools and facilities] The administrator shall maintain immunization records of children, including children in attendance conditionally because of incomplete immunization schedules and children exempted under ORS 433.267.

**SECTION 7.** ORS 433.273 is amended to read:

433.273. The Health Division shall adopt rules pertaining to the implementation of ORS 433.235 to 433.280, which shall include, but need not be limited to:

(1) The definition of "restrictable" disease;

[(1)] (2) The required immunization against diseases, including rubella, considered to be dangerous to the public health under ORS 433.267;

[(2)] (3) The time schedule for immunization;

[(3)] (4) The approved means of immunization;

[(4)] (5) The procedures and time schedule whereby [students] children may be excluded from attendance in schools or facilities, including service of notice to parents; and

[(5)] (6) The manner in which immunization records for children are established, evaluated and maintained; [.]

(7) The exempted schools and children's facilities; and

(8) The implementation of sections 10 and 11 of this 1991 Act.

**SECTION 8.** ORS 433.280 is amended to read:

433.280. Nothing in ORS 179.505, 192.525, 192.530 or 336.185 to 336.215 operates to prevent:

(1) Inspection by or release to administrators by local health departments of information relating to the status of a [child's] person's immunization against [communicable] restrictable diseases with-

out the consent of the [child] person, if the person has been emancipated or has reached the age of majority, or the parent of a child.

(2) Local health departments from releasing information concerning the status of a [child's] person's immunization against **restrictable** [communicable] diseases by telephone to the parent, administrators and public health officials.

**SECTION 9.** Sections 10 to 12 of this Act are added to and made a part of ORS 433.235 to 433.280.

**SECTION 10.** (1) The Health Division may require each post-secondary educational institution, except a community college and a private, proprietary vocational school, to require that each entering full-time student born on or after January 1, 1957, has current immunizations against measles prior to the student's second quarter or semester of enrollment on an Oregon campus, using procedures developed by the institution.

(2) The Health Division by rule shall establish immunization schedules and may further limit the students and programs to which the requirement applies.

(3) The Health Division may conduct validation surveys to insure compliance with this section.

**SECTION 11.** (1) The Health Division may require each community college to require that students involved in clinical experiences in allied health programs, practicum experiences in education and child care programs and membership on intercollegiate sports teams have current immunizations for measles prior to each student's participation. The requirement shall apply only to those students born on or after January 1, 1957.

(2) The State Board of Education by rule shall define clinical experiences in allied health programs, practicum experiences in education and child care programs and membership on intercollegiate sports teams at the community colleges. The Health Division by rule shall establish immunization schedules and may further limit the students and programs to which the requirement applies. Each community college shall develop procedures to implement and maintain this requirement.

(3) The Health Division may conduct validation surveys to insure compliance with this section. Community colleges shall be required to keep immunization records only while the student is involved in the program.

**SECTION 12.** Private schools, children's facilities and post-secondary educational institutions may adopt additional or more stringent requirements as long as medical and religious exemptions are included and the requirements are in compliance with the United States Public Health Service Advisory Committee on Immunization Practices recommendations.

Approved by the Governor June 17, 1991

Filed in the office of Secretary of State June 17, 1991

1993 1993 c.546 § 139 (Approved July 31, 1993; effective regular effective data)

OREGON LAWS 1993 SESSION

Chap. 546

(5) The hearing mentioned in subsection (2) of this section may be waived by the minor and parent or parents.

(6) A uniform filing fee of \$50 shall be charged and collected by the court for each application for emancipation. In addition, the court shall collect any other fees required by law.

**SECTION 136.** (1) The juvenile court in its discretion may enter a decree of emancipation where the minor is at least 16 years of age and the court finds that the best interests of the minor will be served by emancipation. In making its determination, the court shall take into consideration the following factors:

(a) Whether the parent of the minor consents to the proposed emancipation;

(b) Whether the minor has been living away from the family home and is substantially able to be self-maintained and self-supported without parental guidance and supervision; and

(c) Whether the minor can demonstrate to the satisfaction of the court that the minor is sufficiently mature and knowledgeable to manage the minor's affairs without parental assistance.

(2) Upon entry of a decree of emancipation by the court, the applicant shall be given a copy of the decree. The decree shall instruct that the applicant obtain an Oregon driver's license or an Oregon identification card through the Motor Vehicles Division of the Department of Transportation and that the Motor Vehicles Division make a notation of the minor's emancipated status on the license or identification card.

(3) An emancipated minor shall be subject to the jurisdiction of the adult courts for all criminal offenses.

**SECTION 137.** ORS 109.675 is amended to read:

109.675. (1) A minor 14 years of age or older may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder or a chemical dependency, excluding methadone maintenance, by a physician licensed by the Board of Medical Examiners for the State of Oregon, a psychologist licensed by the State Board of Psychologist Examiners, a nurse practitioner registered by the Oregon State Board of Nursing or a clinical social worker licensed by the State Board of Clinical Social Workers or a community mental health and developmental disabilities program established and operated pursuant to ORS 430.620 when approved to do so by the Mental Health and Developmental Disability Services Division pursuant to rule.

(2) However, the person providing treatment shall have the parents of the minor involved before the end of treatment unless the parents refuse or unless there are clear clinical indications to the contrary, which shall be documented in the treat-

ment record. The provisions of this subsection do not apply to:

(a) A minor who has been sexually abused by a parent; or

(b) An emancipated minor, whether emancipated under the provisions of ORS 109.510 [to 109.565] and 109.520 or sections 133 to 136 of this 1993 Act or, for the purpose of this section only, emancipated by virtue of having lived apart from the parents or legal guardian while being self-sustaining for a period of 90 days prior to obtaining treatment as provided by this section.

**SECTION 138.** ORS 339.030 is amended to read: 339.030. In the following cases, children shall not be required to attend public full-time schools:

(1) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools.

(2) Children proving to the satisfaction of the district school board that they have acquired equivalent knowledge to that acquired in the courses of study taught in grades 1 through 12 in the public schools.

(3) Children being taught for a period equivalent to that required of children attending public schools by a parent or private teacher the courses of study usually taught in grades 1 through 12 in the public school.

(4) Children excluded from attendance as provided by law.

(5) The State Board of Education by rule shall establish procedures whereby, on a semiannual basis, an exemption from compulsory attendance may be granted to the parent or legal guardian of any child 16 or 17 years of age who is lawfully employed full time, lawfully employed part-time and enrolled in school, or enrolled in a community college or other state-registered alternative education program. Such exemption also may be granted to any child who is an emancipated minor or who has initiated the procedure for emancipation under [ORS 109.550 to 109.565] sections 133 to 136 of this 1993 Act.

**SECTION 139.** ORS 433.267 is amended to read:

433.267. (1) As a condition of attendance in any school or children's facility in this state, every child through grade 12 shall submit to the administrator one of the following statements unless the school or facility which the child attends already has on file a record which indicates that the child has received immunizations against the restrictable diseases prescribed by rules of the Health Division as provided in ORS 433.273:

(a) A statement signed by the parent, a practitioner of the healing arts who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the child has received;



(b) A statement signed by a physician or a representative of the local health department that the child should be exempted from receiving specified immunization because of indicated medical diagnosis;

(c) A statement signed by the parent that the child has not been immunized as described in paragraph (a) of this subsection because the child is being reared as an adherent to a religion the teachings of which are opposed to such immunization; or

(d) A statement signed by the parent of a child transferring to a school or facility from another school or facility that the parent will have records required by paragraphs (a) to (c) of this subsection for the child sent to the school or facility within 30 days of initial attendance of the child therein. The statement shall be accompanied by a presigned exclusion order from the local health department to be used as described in subsection (6) of this section.

(2) A child shall be required to submit the statement described in subsection (1) of this section prior to attending the school or facility.

(3) Persons who have been emancipated pursuant to [ORS 109.565] section 136 of this 1993 Act or who have reached the age of majority as provided in ORS 109.510 or 109.520 may sign those statements on their own behalf otherwise requiring the signatures of parents under subsection (1) of this section.

(4) The administrator shall conduct a primary evaluation of the records submitted pursuant to subsection (1) of this section to determine whether the child is entitled to begin attendance by reason of having submitted a statement that complies with the requirements of subsection (1) of this section.

(5) If the records do not meet the initial minimum requirements established by rule, the child shall not be allowed to attend until the requirements are met. If the records meet the initial minimum requirements, the child shall be allowed to attend.

(6) If the records are not received within 30 days, as provided in subsection (1)(d) of this section, the administrator shall enforce the presigned exclusion order and exclude the child in accordance with a time schedule established by rule of the Health Division.

(7) At the time specified by the Health Division by rule, records for children meeting the initial minimum requirements and records previously on file shall be reviewed for completion of requirements by the administrator to determine whether the child is entitled to continue in attendance. If the records do not comply, the administrator shall notify the local health department and shall transmit any records concerning the child's immunization status to the department.

(8) The department shall provide for a secondary evaluation of the records to determine whether the child should be excluded for noncompliance with the requirements stated in subsection (1)(a), (b) or (d) of this section. If the child is determined to be in non-compliance, the department shall issue an exclusion order and shall send copies of the order to the parent or the person who is emancipated or has reached

the age of majority and the administrator. On the effective date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

(9) The administrator shall readmit the child to the school or facility when in the judgment of the local health department the child is in compliance with the requirements of this section.

(10) The administrator shall be responsible for updating the statement described in subsection (1)(a) of this section as necessary to reflect the current status of the immunization of the child and the time at which the child comes into compliance with immunizations against the restrictable diseases prescribed by rules of the Health Division pursuant to ORS 433.273.

(11) Nothing in this section shall be construed as relieving agencies, in addition to school districts, which are involved in the maintenance and evaluation of immunization records on April 27, 1981, from continuing responsibility for these activities.

(12) All statements required by this section shall be on forms approved or provided by the Health Division.

(13) In lieu of signed statements from practitioners of the healing arts, the division may accept immunization record updates using practitioner documented immunization records generated by electronic means or on practitioner letterhead but unsigned, if the division determines such records are accurate.

**SECTION 140.** Section 271, chapter 33, Oregon Laws 1993 (Enrolled Senate Bill 257), is amended to read:

**Sec. 271.** (1) No minor shall be in or upon any street, highway, park, alley or other public place between the hours of 12 midnight and 4 a.m. of the following morning, unless:

(a) Such minor is accompanied by a parent, guardian or other person 18 years of age or over and authorized by the parent or by law to have care and custody of the minor;

(b) Such minor is then engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during the hours specified in this section; or

(c) The minor is emancipated pursuant to [ORS 109.550 to 109.565] sections 133 to 136 of this 1993 Act.

(2) No parent, guardian or person having the care and custody of a minor under the age of 18 years shall allow such minor to be in or upon any street, highway, park, alley or other public place between the hours specified in subsection (1) of this section, except as otherwise provided in that subsection.

(3) Subsections (1) and (2) of this section do not affect the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law, provided, that the local ordinance or law restricts

curfew hours at least to the extent required by subsections (1) and (2) of this section.

(4) The county court or board of county commissioners of any county may provide by ordinance for a curfew restriction on minors applicable to areas not within a city, which has the same terms provided in subsection (1) of this section except that the period of curfew may include hours in addition to those specified in subsection (1) of this section. The ordinance may provide different periods of curfew for different age groups.

(5) Any minor who violates subsection (1) of this section or an ordinance established under subsection (4) of this section may be taken into custody as provided in sections 158, 159 and 160 *[of this Act]*, chapter 33, Oregon Laws 1993 (Enrolled Senate

Bill 257), and may be subjected to further proceedings as provided in sections 149 to 271 *[of this Act]*, chapter 33, Oregon Laws 1993 (Enrolled Senate Bill 257).

(6) Violation of subsection (2) of this section is a misdemeanor.

**SECTION 141.** ORS 109.550, 109.555, 109.560, 109.565, 418.740, 418.745, 418.750, 418.755, 418.760, 418.762, 418.764, 418.765, 418.770 and 418.775 and sections 3, 22, 24, 25, 26, 40, 41, 79, 80, 81, 82, 83, 84, 86, 185, 196 and 197, chapter 33, Oregon Laws 1993 (Enrolled Senate Bill 257), are repealed.

Approved by the Governor July 31, 1993

Filed in the office of Secretary of State July 31, 1993

Effective date - Regular effective date

Oregon or by the Naturopathic Board of Examiners or a physician similarly licensed by another state or country in which the physician practices or a commissioned medical officer of the Armed Forces or Public Health Service of the United States.

(6) "School" means a public, private or parochial school offering kindergarten through grade 12 or any part thereof, except as exempted by rule of the [Health Division] Department of Human Services.

**SECTION 157.** ORS 433.260 is amended to read: 433.260. (1) Whenever any administrator has reason to suspect that any child or employee has or has been exposed to any restrictable disease [as prescribed by rules of the Health Division pursuant to ORS 433.273] and is required by the rules of the [Health Division] Department of Human Services to be excluded from a school or children's facility, the administrator shall send such person home and, if the disease is one that must be reported to the [Health Division.] department, report the occurrence to the local health department by the most direct means available.

(2) Any person excluded under subsection (1) of this section shall not be permitted to be in the school or facility until the person presents a certificate from a physician, local health department nurse or school nurse stating that the person does not have or is not a carrier of any restrictable disease.

**SECTION 158.** ORS 433.267 is amended to read: 433.267. (1) As a condition of attendance in any school or children's facility in this state, every child through grade 12 shall submit to the administrator one of the following statements unless the school or facility which the child attends already has on file a record which indicates that the child has received immunizations against the restrictable diseases prescribed by rules of the [Health Division] Department of Human Services as provided in ORS 433.273:

(a) A statement signed by the parent, a practitioner of the healing arts who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the child has received;

(b) A statement signed by a physician or a representative of the local health department that the child should be exempted from receiving specified immunization because of indicated medical diagnosis;

(c) A statement signed by the parent that the child has not been immunized as described in paragraph (a) of this subsection because the child is being reared as an adherent to a religion the teachings of which are opposed to such immunization; or

(d) A statement signed by the parent of a child transferring to a school or facility from another school or facility that the parent will have records required by paragraphs (a) to (c) of this subsection for the child sent to the school or facility within 30 days of initial attendance of the child therein. The

statement shall be accompanied by a presigned exclusion order from the local health department to be used as described in subsection (6) of this section.

(2) A child shall be required to submit the statement described in subsection (1) of this section prior to attending the school or facility.

(3) Persons who have been emancipated pursuant to ORS 419B.558 or who have reached the age of majority as provided in ORS 109.510 or 109.520 may sign those statements on their own behalf otherwise requiring the signatures of parents under subsection (1) of this section.

(4) The administrator shall conduct a primary evaluation of the records submitted pursuant to subsection (1) of this section to determine whether the child is entitled to begin attendance by reason of having submitted a statement that complies with the requirements of subsection (1) of this section.

(5) If the records do not meet the initial minimum requirements established by rule, the child shall not be allowed to attend until the requirements are met. If the records meet the initial minimum requirements, the child shall be allowed to attend.

(6) If the records are not received within 30 days, as provided in subsection (1)(d) of this section, the administrator shall enforce the presigned exclusion order and exclude the child in accordance with a time schedule established by rule of the [Health Division] department.

(7) At the time specified by the [Health Division] department by rule, records for children meeting the initial minimum requirements and records previously on file shall be reviewed for completion of requirements by the administrator to determine whether the child is entitled to continue in attendance. If the records do not comply, the administrator shall notify the local health department and shall transmit any records concerning the child's immunization status to the local health department.

(8) The local health department shall provide for a secondary evaluation of the records to determine whether the child should be excluded for non-compliance with the requirements stated in subsection (1)(a), (b) or (d) of this section. If the child is determined to be in noncompliance, the local health department shall issue an exclusion order and shall send copies of the order to the parent or the person who is emancipated or has reached the age of majority and the administrator. On the effective date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

(9) The administrator shall readmit the child to the school or facility when in the judgment of the local health department the child is in compliance with the requirements of this section.

(10) The administrator shall be responsible for updating the statement described in subsection (1)(a) of this section as necessary to reflect the current status of the immunization of the child and the time at which the child comes into compliance with

immunizations against the restrictable diseases prescribed by rules of the [Health Division] department pursuant to ORS 433.273.

(11) Nothing in this section shall be construed as relieving agencies, in addition to school districts, which are involved in the maintenance and evaluation of immunization records on April 27, 1981, from continuing responsibility for these activities.

(12) All statements required by this section shall be on forms approved or provided by the [Health Division] department.

(13) In lieu of signed statements from practitioners of the healing arts, the [division] department may accept immunization record updates using practitioner documented immunization records generated by electronic means or on practitioner letterhead but unsigned, if the [division] department determines such records are accurate.

**SECTION 159.** ORS 435.205 is amended to read:

435.205. (1) The Department of Human Services and every county health department shall offer family planning and birth control services within the limits of available funds. Both agencies jointly may offer such services. The Director of Human Services or a designee [may designate which divisions] shall initiate and conduct discussions of family planning with each person who might have an interest in and benefit from such service. The Department of Human Services [through its divisions] shall furnish consultation and assistance to county health departments.

(2) Family planning and birth control services may include [interview] interviews with trained personnel; distribution of literature; referral to a licensed physician for consultation, examination, medical treatment and prescription; and, to the extent so prescribed, the distribution of rhythm charts, the initial supply of a drug or other medical preparation, contraceptive devices and similar products.

(3) Any literature, charts or other family planning and birth control information offered under this section in counties in which a significant segment of the population does not speak English shall be made available in the appropriate foreign language for that segment of the population.

(4) In carrying out its duties under this section, and with the consent of the county governing body, any county health department may adopt a fee schedule for services provided by the county health department. The fees shall be reasonably calculated not to exceed costs of services provided and may be adjusted on a sliding scale reflecting ability to pay.

(5) The county health department shall collect fees according to the schedule adopted under subsection (4) of this section. Such fees may be used to meet the expenses of providing the services authorized by this section.

**NOTE:** Section 160 was deleted by amendment. Subsequent sections were not renumbered.

**SECTION 161.** ORS 441.020 is amended to read:

441.020. (1) Licenses for health care facilities [except] including long term care facilities, as defined in ORS 442.015, shall be obtained from the [Health Division.] Department of Human Services.

[(2) Licenses for long term care facilities shall be obtained from the Senior and Disabled Services Division.]

[(3)] (2) Applications shall be upon such forms and shall contain such information as the [appropriate division] department may reasonably require, which may include affirmative evidence of ability to comply with such reasonable standards and rules as may lawfully be prescribed under ORS 441.055.

[(4)] (3) Each application shall be accompanied by the license fee. If the license is denied, the fee shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State Treasury to the credit of the [appropriate division] Department of Human Services Account for carrying out the functions under ORS 441.015 to 441.063 and 431.607 to 431.619.

[(5)] (4) Except as otherwise provided in subsection [(6)] (5) of this section, for hospitals with:

(a) Fewer than 26 beds, the annual license fee shall be \$750.

(b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,000.

(c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be \$1,900.

(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$2,900.

(e) Two hundred or more beds, the annual license fee shall be \$3,400.

[(6)] (5) For long term care facilities with:

(a) Fewer than 16 beds, the annual license fee shall be up to \$120.

(b) Sixteen beds or more but fewer than 50 beds, the annual license fee shall be up to \$175.

(c) Fifty beds or more but fewer than 100 beds, the annual license fee shall be up to \$350.

(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be up to \$450.

(e) Two hundred beds or more, the annual license fee shall be up to \$580.

[(7)] (6) For special inpatient care facilities with:

(a) Fewer than 26 beds, the annual license fee shall be \$750.

(b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,000.

(c) Fifty beds or more but fewer than 100 beds, the annual license fee shall be \$1,900.

(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$2,900.

(e) Two hundred beds or more, the annual license fee shall be \$3,400.

[(8)] (7) For ambulatory surgical centers, the annual license fee shall be \$1,000.

[(9)] (8) For birthing centers, the annual license fee shall be \$250.

[(10)] (9) During the time the licenses remain in force holders thereof are not required to pay inspection fees to any county, city or other municipality.



2005 **2005 c.343 § 3** (Effective January 1, 2006)

## OREGON LAWS 2005

Chap. 343

sanitarium, rest home, nursing home or other organization or person furnishing such information to an action for damages.

(3) Subsection (1) of this section does not prevent the department or a health agency from publishing:

(a) Statistical compilations and reports relating to special **epidemiologic** morbidity and mortality studies, if such compilations and reports do not identify individual cases and sources of information.

(b) General morbidity and mortality studies customarily and continuously conducted by the department or health agency that do not involve patient identification.

(4) Nothing in this section prevents disposition of records described in subsection (1) of this section pursuant to ORS 192.105.

Approved by the Governor June 28, 2005

Filed in the office of Secretary of State June 29, 2005

Effective date January 1, 2006

## CHAPTER 343

## AN ACT

SB 225

Relating to immunizations regulated by Department of Human Services; amending ORS 433.235, 433.255, 433.267 and 433.282.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 433.235 is amended to read: 433.235. As used in ORS 433.235 to 433.284:

(1) "Administrator" means the principal or other person having general control and supervision of a school or children's facility.

(2) "Children's facility" or "facility" means:

(a) A certified child care facility as described in ORS 657A.030 and 657A.250 to 657A.450, except as exempted by rule of the Department of Human Services;

(b) A program operated by, or sharing the premises with, a certified child care facility, school or post-secondary institution where care is provided to children, six weeks of age to kindergarten entry, except as exempted by rule of the department; or

(c) A program providing child care or educational services to children, six weeks of age to kindergarten entry, in a residential or nonresidential setting, except as exempted by rule of the department.

(3) "Local health department" means the district or county board of health, public health officer, public health administrator or health department having jurisdiction within the area.

(4) "Parent" means a parent or guardian of a child or any adult responsible for the child.

(5) "Physician" means a physician licensed by the Board of Medical Examiners for the State of Oregon or by the Board of Naturopathic Examiners or a physician similarly licensed by another state or country in which the physician practices or a com-

missioned medical officer of the Armed Forces or Public Health Service of the United States.

(6) "School" means a public, private, [or] parochial, **charter or alternative educational program** [school] offering kindergarten through grade 12 or any part thereof, except as exempted by rule of the Department of Human Services.

**SECTION 2.** ORS 433.255 is amended to read:

433.255. Except in strict conformity with the rules of the Department of Human Services, no child or employee shall be permitted to be in any school or children's facility when:

(1) That child or employee has any restrictable disease;

(2) That child or employee comes from any house in which exists any restrictable disease; or

(3) That child has been excluded as provided in ORS 433.267 (5) or [(8)] (7).

**SECTION 3.** ORS 433.267 is amended to read:

433.267. (1) As a condition of attendance in any school or children's facility in this state, every child through grade 12 shall submit to the administrator one of the following statements unless the school or facility which the child attends already has on file a record which indicates that the child has received immunizations against the restrictable diseases prescribed by rules of the Department of Human Services as provided in ORS 433.273:

(a) A statement signed by the parent, a practitioner of the healing arts who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the child has received;

(b) A statement signed by a physician or a representative of the local health department that the child should be exempted from receiving specified immunization because of indicated medical diagnosis; **or**

(c) A statement signed by the parent that the child has not been immunized as described in paragraph (a) of this subsection because the child is being reared as an adherent to a religion the teachings of which are opposed to such immunization; **or**

[(d) A statement signed by the parent of a child transferring to a school or facility from another school or facility that the parent will have records required by paragraphs (a) to (c) of this subsection for the child sent to the school or facility within 30 days of initial attendance of the child therein. The statement shall be accompanied by a presigned exclusion order from the local health department to be used as described in subsection (6) of this section].

(2)(a) A newly entering child or a transferring child shall be required to submit the statement described in subsection (1) of this section prior to attending the school or facility.

(b) Notwithstanding paragraph (a) of this subsection, a child transferring from a school in the United States must submit the statement required by subsection (1) of this section not



later than the exclusion date set by rule of the department.

(3) Persons who have been emancipated pursuant to ORS 419B.558 or who have reached the age of [majority as provided in ORS 109.510 or 109.520] consent for medical care pursuant to ORS 109.640 may sign those statements on their own behalf otherwise requiring the signatures of parents under subsection (1) of this section.

(4) The administrator shall conduct a primary evaluation of the records submitted pursuant to subsection (1) of this section to determine whether the child is entitled to begin attendance by reason of having submitted a statement that complies with the requirements of subsection (1) of this section.

(5) If the records do not meet the initial minimum requirements established by rule, the child [shall] may not be allowed to attend until the requirements are met. If the records meet the initial minimum requirements, the child shall be allowed to attend.

[(6) If the records are not received within 30 days, as provided in subsection (1)(d) of this section, the administrator shall enforce the presigned exclusion order and exclude the child in accordance with a time schedule established by rule of the department.]

[(7)] (6) At the time specified by the department by rule, records for children meeting the initial minimum requirements and records previously on file shall be reviewed for completion of requirements by the administrator to determine whether the child is entitled to continue in attendance. If the records do not comply, the administrator shall notify the local health department and shall transmit any records concerning the child's immunization status to the local health department.

[(8)] (7) The local health department shall provide for a secondary evaluation of the records to determine whether the child should be excluded for noncompliance with the requirements stated in subsection [(1)(a), (b) or (d)] (1)(a) or (b) of this section. If the child is determined to be in noncompliance, the local health department shall issue an exclusion order and shall send copies of the order to the parent or the person who is emancipated or has reached the age of majority and the administrator. On the effective date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

[(9)] (8) The administrator shall readmit the child to the school or facility when in the judgment of the local health department the child is in compliance with the requirements of this section.

[(10)] (9) The administrator shall be responsible for updating the statement described in subsection (1)(a) of this section as necessary to reflect the current status of the immunization of the child and the time at which the child comes into compliance with immunizations against the restrictable diseases prescribed by rules of the department pursuant to ORS 433.273.

[(11)] (10) Nothing in this section shall be construed as relieving agencies, in addition to school districts, which are involved in the maintenance and evaluation of immunization records on April 27, 1981, from continuing responsibility for these activities.

[(12)] (11) All statements required by this section shall be on forms approved or provided by the department.

[(13)] (12) In lieu of signed statements from practitioners of the healing arts, the department may accept immunization record updates using practitioner documented immunization records generated by electronic means or on practitioner letterhead but unsigned, if the department determines such records are accurate.

(13) As used in this section:

(a) "Newly entering child" means a child who is initially attending:

(A) A facility in this state;

(B) A school at the entry grade level;

(C) Either a school at any grade level or a facility from homeschooling; or

(D) A school at any grade level or a facility after entering the United States from another country.

(b) "Transferring child" means a child moving from:

(A) One facility to another facility;

(B) One school in this state to another school in this state when the move is not the result of a normal progression of grade level; or

(C) A school in another state to a school in this state.

**SECTION 4.** ORS 433.282 is amended to read:

433.282. (1) The Department of Human Services may require each post-secondary educational institution, except a community college [and] or a career school, to require that each entering full-time student [born on or after January 1, 1957,] has current immunizations [against measles], as required for children attending school pursuant to rules adopted by the department under ORS 433.273, prior to the student's second quarter or semester of enrollment on an Oregon campus, using procedures developed by the institution.

(2) Notwithstanding subsection (1) of this section, the department may require each post-secondary educational institution, except a community college or a career school, to document, using procedures developed by the institution, that each entering full-time student has current immunizations, as required for children attending school pursuant to rules adopted by the department under ORS 433.273, prior to the student attending classes if the student will be attending the institution pursuant to a nonimmigrant visa.

[(2)] (3) The department [of Human Services] by rule shall establish immunization schedules and may further limit the students and programs to which the requirement applies.

[3/] (4) The department [of *Human Services*] may conduct validation surveys to ensure compliance with this section.

Approved by the Governor June 29, 2005

Filed in the office of Secretary of State June 29, 2005

Effective date January 1, 2006

## CHAPTER 344

### AN ACT

SB 5025

Relating to state financial administration; appropriating money; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

**SECTION 1.** As used in sections 1 to 4 of this 2005 Act, "state agency" means every state officer, board, commission, department, institution, branch or agency of the state government, the costs of which are paid wholly or in part from funds held in the State Treasury.

**SECTION 2.** (1) Notwithstanding ORS 291.232 to 291.260, and subject to any rule that may be adopted by the Oregon Department of Administrative Services, any obligations incurred by a state agency on or after July 1, 2005, that do not exceed the level of expenditures authorized under ORS 291.232 to 291.260 or otherwise authorized for the last quarter of the 2003-2005 biennium are hereby authorized, and necessary funds are appropriated therefor, unless the Oregon Department of Administrative Services determines that the state agency's expenditure level should be modified, based on pending legislation.

(2) The Oregon Department of Administrative Services by rule shall specify the means whereby funds expended pursuant to subsection (1) of this section are reconciled and charged to the state agency's 2005-2007 legislatively approved budget during the 2005-2007 biennium.

(3) All payments for debt service, certificates of participation and other financing agreements are hereby authorized during the period commencing July 1, 2005.

**SECTION 3.** Sections 1 to 4 of this 2005 Act apply to a state agency for which no legislatively approved budget has been enacted on or before July 1, 2005.

**SECTION 4.** If there is no 2005-2007 legislatively approved budget upon final adjournment of the regular session of the Seventy-third Legislative Assembly against which any expenditure authorized by section 2 (1) of this 2005 Act can be applied, the expenditure shall be considered to have been made from funds appropriated to the Oregon Department of Administrative Services. For the purpose of paying the incurred expenses of state agencies,

there is appropriated to the Oregon Department of Administrative Services any cash or other funds remaining in the accounts of the state agency for which no budget has been approved and for which no expenditure authority exists when the Legislative Assembly adjourns sine die. The Oregon Department of Administrative Services may apply for reimbursement from the Emergency Board of any expenditure made under this section during the 2005-2007 biennium.

**SECTION 5.** Sections 1 to 4 of this 2005 Act are repealed on July 31, 2005.

**SECTION 6.** This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect July 1, 2005.

Approved by the Governor June 29, 2005

Filed in the office of Secretary of State June 29, 2005

Effective date July 1, 2005

## CHAPTER 345

### AN ACT

SB 268

Relating to tax court procedures; creating new provisions; amending ORS 40.015, 305.190, 305.230, 305.392, 305.403, 305.420, 305.430, 305.490, 305.501 and 305.620; and repealing ORS 305.514.

Be It Enacted by the People of the State of Oregon:

**SECTION 1.** ORS 305.514 is repealed.

**SECTION 2.** ORS 40.015 is amended to read:

40.015. (1) The Oregon Evidence Code applies to all courts in this state except for:

(a) A [tax court small claims procedure or a] hearing or mediation before a magistrate of the Oregon Tax Court as provided by ORS 305.501;

(b) The small claims department of a circuit court as provided by ORS 46.415; and

(c) The small claims department of a justice court as provided by ORS 55.080.

(2) The Oregon Evidence Code applies generally to civil actions, suits and proceedings, criminal actions and proceedings and to contempt proceedings except those in which the court may act summarily.

(3) ORS 40.225 to 40.295 relating to privileges apply at all stages of all actions, suits and proceedings.

(4) ORS 40.010 to 40.210 and 40.310 to 40.585 do not apply in the following situations:

(a) The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under ORS 40.030.

(b) Proceedings before grand juries, except as required by ORS 132.320.

(c) Proceedings for extradition, except as required by ORS 133.743 to 133.857.

(1) That child or employee has any restrictable disease;

(2) That child or employee comes from any house in which exists any restrictable disease; or

(3) That child has been excluded as provided in ORS 433.267 (5) or (7).

**SECTION 650.** ORS 433.260 is amended to read: 433.260. (1) Whenever any administrator has reason to suspect that any child or employee has or has been exposed to any restrictable disease and is required by the rules of the [Department of Human Services] **Oregon Health Authority** to be excluded from a school or children's facility, the administrator shall send such person home and, if the disease is one that must be reported to the [department] **authority**, report the occurrence to the local health department by the most direct means available.

(2) Any person excluded under subsection (1) of this section may not be permitted to be in the school or facility until the person presents a certificate from a physician, nurse practitioner, local health department nurse or school nurse stating that the person does not have or is not a carrier of any restrictable disease.

**SECTION 651.** ORS 433.267 is amended to read: 433.267. (1) As a condition of attendance in any school or children's facility in this state, every child through grade 12 shall submit to the administrator one of the following statements unless the school or facility which the child attends already has on file a record which indicates that the child has received immunizations against the restrictable diseases prescribed by rules of the [Department of Human Services] **Oregon Health Authority** as provided in ORS 433.273:

(a) A statement signed by the parent, a practitioner of the healing arts who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the child has received;

(b) A statement signed by a physician or a representative of the local health department that the child should be exempted from receiving specified immunization because of indicated medical diagnosis; or

(c) A statement signed by the parent that the child has not been immunized as described in paragraph (a) of this subsection because the child is being reared as an adherent to a religion the teachings of which are opposed to such immunization.

(2)(a) A newly entering child or a transferring child shall be required to submit the statement described in subsection (1) of this section prior to attending the school or facility.

(b) Notwithstanding paragraph (a) of this subsection, a child transferring from a school in the United States must submit the statement required by subsection (1) of this section not later than the exclusion date set by rule of the [department] **authority**.

(3) Persons who have been emancipated pursuant to ORS 419B.558 or who have reached the age of consent for medical care pursuant to ORS 109.640 may sign those statements on their own behalf otherwise requiring the signatures of parents under subsection (1) of this section.

(4) The administrator shall conduct a primary evaluation of the records submitted pursuant to subsection (1) of this section to determine whether the child is entitled to begin attendance by reason of having submitted a statement that complies with the requirements of subsection (1) of this section.

(5) If the records do not meet the initial minimum requirements established by rule, the child may not be allowed to attend until the requirements are met. If the records meet the initial minimum requirements, the child shall be allowed to attend.

(6) At the time specified by the [department] **authority** by rule, records for children meeting the initial minimum requirements and records previously on file shall be reviewed for completion of requirements by the administrator to determine whether the child is entitled to continue in attendance. If the records do not comply, the administrator shall notify the local health department and shall transmit any records concerning the child's immunization status to the local health department.

(7) The local health department shall provide for a secondary evaluation of the records to determine whether the child should be excluded for noncompliance with the requirements stated in subsection (1)(a) or (b) of this section. If the child is determined to be in noncompliance, the local health department shall issue an exclusion order and shall send copies of the order to the parent or the person who is emancipated or has reached the age of majority and the administrator. On the effective date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

(8) The administrator shall readmit the child to the school or facility when in the judgment of the local health department the child is in compliance with the requirements of this section.

(9) The administrator shall be responsible for updating the statement described in subsection (1)(a) of this section as necessary to reflect the current status of the immunization of the child and the time at which the child comes into compliance with immunizations against the restrictable diseases prescribed by rules of the [department] **authority** pursuant to ORS 433.273.

(10) Nothing in this section shall be construed as relieving agencies, in addition to school districts, which are involved in the maintenance and evaluation of immunization records on April 27, 1981, from continuing responsibility for these activities.

(11) All statements required by this section shall be on forms approved or provided by the [department] **authority**.

(12) In lieu of signed statements from practitioners of the healing arts, the [department] **authority**

may accept immunization record updates using practitioner documented immunization records generated by electronic means or on [practitioner letterhead but unsigned, if the department] **unsigned practitioner letterhead if the authority determines such records are accurate.**

(13) As used in this section:

(a) "Newly entering child" means a child who is initially attending:

- (A) A facility in this state;
- (B) A school at the entry grade level;
- (C) Either a school at any grade level or a facility from homeschooling; or
- (D) A school at any grade level or a facility after entering the United States from another country.

(b) "Transferring child" means a child moving from:

- (A) One facility to another facility;
- (B) One school in this state to another school in this state when the move is not the result of a normal progression of grade level; or
- (C) A school in another state to a school in this state.

**SECTION 652.** ORS 433.269 is amended to read: 433.269. (1) Local health departments shall make available immunizations to be administered under the direction of the local health officer in convenient areas and at convenient times. No person shall be refused service because of inability to pay.

(2) The local health department and all schools and children's facilities shall report annually to the [Department of Human Services as specified in the rules of the Department of Human Services on the number of children in the area served and those children who are susceptible to restrictable disease as prescribed by rules of the Department of Human Services pursuant to ORS 433.273 by reason of noncompliance] **Oregon Health Authority on the number of children in the area served and the number of children who are susceptible to restrictable disease as prescribed by the authority's rules pursuant to ORS 433.273.** A child exempted under ORS 433.267 shall be considered to be susceptible.

(3) The administrator shall maintain immunization records of children, including children in attendance conditionally because of incomplete immunization schedules and children exempted under ORS 433.267.

**SECTION 653.** ORS 433.271 is amended to read: 433.271. The [Department of Human Services] **Oregon Health Authority** may not purchase or distribute a pediatric vaccine necessary for school entry immunization requirements if the vaccine contains thimerosal, unless thimerosal is detectable only in trace amounts or no other vaccine for the same purpose is commercially available in a form that does not contain thimerosal. The [department] **authority** may purchase and distribute a pediatric vaccine that contains thimerosal if no other vaccine for the same purpose is commercially available in a form that does not contain thimerosal.

**SECTION 654.** ORS 433.273 is amended to read: 433.273. The [Department of Human Services] **Oregon Health Authority** shall adopt rules pertaining to the implementation of ORS 433.235 to 433.284, which shall include, but need not be limited to:

- (1) The definition of "restrictable" disease;
- (2) The required immunization against diseases, including rubella, considered to be dangerous to the public health under ORS 433.267;
- (3) The time schedule for immunization;
- (4) The approved means of immunization;
- (5) The procedures and time schedule whereby children may be excluded from attendance in schools or facilities, including service of notice to parents;
- (6) The manner in which immunization records for children are established, evaluated and maintained;
- (7) The exempted schools and children's facilities; and
- (8) The implementation of ORS 433.282 and 433.283.

**SECTION 654a.** ORS 433.282 is amended to read:

433.282. (1) The [Department of Human Services] **Oregon Health Authority** may require each post-secondary educational institution, except a community college or a career school, to require that each entering full-time student has current immunizations, as required for children attending school pursuant to rules adopted by the [department] **authority** under ORS 433.273, prior to the student's second quarter or semester of enrollment on an Oregon campus, using procedures developed by the institution.

(2) Notwithstanding subsection (1) of this section, the [department] **authority** may require each post-secondary educational institution, except a community college or a career school, to document, using procedures developed by the institution, that each entering full-time student has current immunizations, as required for children attending school pursuant to rules adopted by the [department] **authority** under ORS 433.273, prior to the student attending classes if the student will be attending the institution pursuant to a nonimmigrant visa.

(3) The [department] **authority** by rule shall establish immunization schedules and may further limit the students and programs to which the requirement applies.

(4) The [department] **authority** may conduct validation surveys to ensure compliance with this section.

**SECTION 654b.** ORS 433.283 is amended to read:

433.283. (1) The [Department of Human Services] **Oregon Health Authority** may require each community college to require that students involved in clinical experiences in allied health programs,



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PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

\*\*\* Pa.C.S. documents are current through 2014 Regular Session Act 11,  
Enacted February 4, 2014.\*\*\*

\*P.S. documents are current through 2013 Regular Session Acts 88, 91, 93 to  
97, 99 to 103\*

\* Annotations current through October 16, 2013\*

PENNSYLVANIA STATUTES  
TITLE 24. EDUCATION  
CHAPTER 1. PUBLIC SCHOOL CODE OF 1949  
ARTICLE XIII. PUPILS AND ATTENDANCE  
(A) ATTENDANCE

[Go to the Pennsylvania Code Archive Directory](#)

**24 P.S. § 13-1303a** (2013)

**§ 13-1303a.** Immunization required; penalty

(a) It shall be the duty of all school directors, superintendents, principals, or other persons in charge of any public, private, parochial, or other school including kindergarten, to ascertain that every child, prior to admission to school for the first time has been immunized, as the Secretary of Health may direct, against such diseases as shall appear on a list to be made and from time to time reviewed by the Advisory Health Board. All certificates of immunization shall be issued in accordance with the rules and regulations promulgated by the Secretary of Health with the sanction and advice of the Advisory Health Board.

(b) Any person who shall fail, neglect, or refuse to comply with, or who shall violate, any of the provisions or requirements of this section, except as hereinafter provided, shall, for every such offense, upon summary conviction thereof, be sentenced to pay a fine of not less than five dollars (\$ 5) nor more than one hundred dollars (\$ 100), and in default thereof, to undergo an imprisonment in the jail of the proper county for a period not exceeding sixty (60) days. All such fines shall be paid into the treasury of the school district.

**(c) The provisions of this section shall not apply in the case of any child deemed to have a medical contraindication which may contraindicate**

immunization and so certified by a physician. Such certificates may be accepted in lieu of a certificate of immunization.

(d) The provisions of this section shall not apply in the case of any child whose parent or guardian objects in writing to such immunization on religious grounds.

**HISTORY:** Act 1974-67 (H.B. 1364), P.L. 258, § 1, approved Apr. 11, 1974, eff. immediately.

School Code Act of 1949  
Section 1303

194

## LAWS OF PENNSYLVANIA,

non-resident child temporarily residing in the district, and may require the attendance of such non-resident child in the same manner and on the same conditions as it requires the attendance of a resident child.

Section 1302. Residence and Right to Free School Privileges.—A child shall be considered a resident of the school district in which his parents or the guardian of his person resides. When a resident of any school district keeps in his home a child of school age, not his own, supporting the child gratis as if it were his own, such child shall be entitled to all free school privileges accorded to resident school children of the district, including the right to attend the public high school maintained in such district or in other districts in the same manner as though such child were in fact a resident school child of the district, and shall be subject to all the requirements placed upon resident school children of the district. Before accepting such child as a pupil, the board of school directors of the district may require such resident to file with the secretary of the board a sworn statement that he is a resident of the district, that he is supporting the child gratis, that he will assume all personal obligations for the child relative to school requirements, and that he intends to so keep and support the child continuously and not merely through the school term.

Section 1303. Vaccination Required; Penalty.—(a) It shall be the duty of all school directors, superintendents, principals, or other persons in charge of any public, private, parochial, or other school, to refuse the admission of any child to any of said schools under their charge or supervision, except upon a certificate signed by a physician, setting forth that such child has been vaccinated and that a subsequent examination reveals a resulting cicatrix indicating successful vaccination, or that vaccination has been performed according to the rules and regulations promulgated by the Secretary of Health, with the sanction and advice of the Advisory Health Board, or that the child has previously had smallpox. All certificates of vaccination shall be issued in accordance with the rules and regulations promulgated by the Secretary of Health with the sanction and advice of the Advisory Health Board.

(b) Any person who shall fail, neglect, or refuse to comply with, or who shall violate, any of the provisions or requirements of this section, shall, for every such offense, upon summary conviction thereof, be sentenced to pay a fine of not less than five dollars (\$5) nor more than one hundred dollars (\$100), and in default thereof, to undergo an imprisonment in the jail of the proper county for a period not exceeding sixty (60) days. All

## SESSION OF 1949.

195

such fines shall be paid into the treasury of the school district.

Section 1304. Admission of Beginners. — Unless otherwise directed by the board of school directors, the admission of beginners to the public schools shall be confined to the first two weeks of the annual school term. Beginners becoming six (6) years of age after the beginning of the school term, and before the first day of February of any year, shall be admitted during the first two weeks of the annual school term or during such additional periods for the admission of such beginners as the board of school directors in any school district may fix.

The term "beginners," as used in this section, shall mean any child that should enter the lowest grade of the primary school or the lowest primary class.

Section 1305. Non-resident Child Placed in Home of Resident.—(a) When a non-resident child is placed in the home of a resident of any school district by order of court or by arrangement with an association, agency, or institution having the care of neglected and dependent children, such resident being compensated for keeping the child, any child of school age so placed shall be entitled to all free school privileges accorded to resident school children of the district, including the right to attend the public high school maintained in such district or in other districts in the same manner as though such child were in fact a resident school child of the district.

The school district may not be required to accept such children in its schools when their acceptance would involve additional provisions for transportation by the district, or would require the district to provide additional teachers or rooms, at an expense greater than the amount of reimbursement paid to the district by the State on account of the instruction of such children.

(b) Any resident of any school district, before accepting custody of a non-resident child of school age for compensation by order of court or by arrangement with an association, agency, or institution having the care of dependent or neglected children, must secure, from the superintendent of schools, supervising principal, or school board in that district, a statement in writing that the child can be accommodated in the schools of the district or that the child can not be accommodated and the reasons therefor. If such statements are not furnished within two weeks after a request in writing has been made to the board's secretary, the supervising principal, or the superintendent of schools, the board's assent shall be assumed, and the child shall be admitted to the schools of the district as a pupil. If such statement sets forth conditions such as to exempt the district



**Section 1408****SESSION OF 1949.**

223

and such other records as the Department of Health in conjunction with the Advisory Health Board may deem necessary.

All records established and maintained pursuant to this act shall be confidential and their contents shall be divulged only as herein provided.

**Section 1408. Objections to Examination or Treatment on Religious Grounds.**—This subdivision of this article shall not be construed to compel any person to submit to any medical or dental examination or treatment under the authority of this act when such person, or the parent, or guardian of any such person objects to such examination or treatment on religious grounds, or to permit any discrimination against such person on account of such objection: Provided, That exemption from medical or dental examination shall not be granted if the Secretary of Health shall find that facts exist under which such exemption constitutes a present substantial menace to the health of other persons exposed to contact with the unexamined person.

**Section 1409. Examinations by Examiners of Own Choice.**—Any child of school age, teacher or other employe may meet the requirements of this act by providing the local school officials with a medical or dental report of examinations made at his own expense by a medical or dental examiner of his own choice on a form approved by the Department of Health for this purpose.

**Section 1410. Report of Health Service.**—On or before the beginning of the school year, school districts of the first, second and third class shall file with the Secretary of Health, a report including the estimated number of children of school age, teachers and other employes who will be given a complete medical examination, and children of school age who will be given a complete dental examination during the ensuing school year and the names of the medical and dental examiners and other health personnel to be employed who will be responsible for carrying out the requirements of this act. Upon submission of such reports the Secretary of Health may then approve the service for the ensuing year.

**Section 1411. Compensation of Examiners; State Reimbursements.**—School districts of the first, second and third class, and medical and dental examiners in fourth class school districts shall be paid from Commonwealth funds at the rate of one dollar and fifty cents (\$1.50) for each medical examination and seventy-five cents (75c) for each dental examination. School districts of the first, second and third class shall report to the Secretary of Health the number of children of school age, teachers and other employes who have been given

## LAWS OF PENNSYLVANIA,

Instruction shall prescribe. The Superintendent of Public Instruction shall also appoint a competent person to supervise audiometric tests. Such person will be one certified to teach in the public schools, shall be thoroughly familiar with the use and purpose of audiometers, and shall have some experience in medical social service. Such person shall supervise the use of audiometers and other scientific appliances used in hearing tests and perform such other duties as may be assigned by the specialist for sight and hearing.

Section 1424. Special Examinations.—If at any time during the school year the district superintendent or supervising principal discovers the need for special examination of any school employe or pupil, he shall refer such case to the responsible medical examiner for special consultation and recommendation.

Section 1425. Department or Board of Health in Districts First Class.—In school districts of the first class, wherein the Department or Board of Health therein is providing the medical examinations for the public schools required by this act, said Department or Board of Health may, if it so elects, continue to provide such medical examinations, and appoint such number of examiners therefor, with such salaries, as shall be satisfactory to the board of public education of the district. The medical examinations so provided shall be deemed a compliance with this subdivision of this article, and shall be paid for by the school district.

Section 1426. Department of Health to Provide in Districts Fourth Class.—In every school district of the fourth class, the Department of Health, shall provide, in such manner as it may determine, medical examinations for all the pupils in the public schools by proper medical examiners, to be appointed by the Secretary of Health, at the expense of said department. In the event that such department, because of lack of funds, is unable to provide adequate medical examinations at its expense, the school district may, at its own expense, provide such medical examinations or additional medical examinations. All such medical examiners shall be legally qualified physicians. Such medical examinations shall be made in the presence of the parent or guardian of the pupil, when so requested by parent or guardian.

Section 1427. Report to Secretary of Health; Appointment when No Examinations Furnished.—In every school district which is required by this act to provide medical examinations for its public schools, the secretary of the school board or the district superintendent shall, on or before the first day of September of each year, report to the Secretary of Health the names of the medical examiners or the name of the chief medical examiner.

with the number of assistants or additional examiners, appointed for the ensuing term. If such medical examination as is herein required is not furnished within thirty days after the beginning of the school term, the Secretary of Health shall, after two weeks' written notice, to the board of school directors of such district, appoint a properly qualified medical examiner or examiners for the district for the remainder of the school term, and shall fix the compensation for the same which shall be paid by the district.

Section 1428. Reports by Medical and Dental Examiners; Additional Duties.—Medical and dental examiners shall promptly make such reports to the Secretary of Health as are required by him or by the regulations of his department. They shall also make such reports to the local boards of school directors as they deem necessary, or as are required by the Secretary of Health or by the board of school directors. The medical and dental examiners shall perform such other duties as may be required by the health and sanitation laws of this Commonwealth or by the board of school directors.

Section 1429. School Nurses; Cooperation with Political Subdivisions.—Any board of school directors, or boards of school directors jointly, shall employ one or more school nurses, and shall define their duties. All nurses so employed shall be graduates of accredited training schools for nurses, certificated by the Department of Public Instruction as school nurses, and shall be registered in this Commonwealth with the State Board of Examiners for the Registration of Nurses. Any school district may, in any health work in which it is authorized to engage, cooperate with any county, city, borough, town or township engaged in health work.

Section 1430. Dental Hygienists.—Any board of school directors, or boards of school directors jointly, may employ one or more dental hygienists and shall define their duties. All dental hygienists so employed shall have successfully completed a curriculum in dental hygiene, and have been licensed by the State Dental Council and Examining Board of the Pennsylvania Department of Public Instruction, and certified as a public school dental hygienist by the Pennsylvania Department of Public Instruction.

Section 1431. Care and Treatment of Pupils.—Any school district may provide for the care and treatment of defective eyes, ears, and teeth of all pupils of its public schools.

Section 1432. Precautions against Spread of Tuberculosis.—No person having any form of tuberculosis in a transmissible stage shall be a pupil, teacher, janitor, or any other employe in any public school, except in a



## Section 1437

## SESSION OF 1949.

229

ganizing a follow-up program. Those making the medical and dental examinations shall make an annual report to this advisory council, and later make a report on the remedial work which has been accomplished during the school year. This advisory council shall be composed of representatives of the medical and dental associations, social organizations, veterans organizations, parent-teacher associations, service clubs and other organizations in the area served.

Section 1437. Objections to Examination or Treatment on Religious Grounds.—This subdivision of this article shall not be construed to compel any teacher, school employe or pupil to submit to any medical or dental examination or treatment under the authority of this act, when such teacher, employe or the parent or guardian of such pupil objects to the same on religious grounds, nor shall any teacher, employe or pupil be discriminated against on account of such objection.

Section 1438. Public Assistance for Medical, Dental or Surgical Care.—If the record of the medical or dental examination of any child, discloses a condition which requires medical, dental or surgical treatment and the parent or guardian states to the school authorities that he is financially unable to have a physician or dentist of his choice render such care, he shall be advised that the cost of such care will be provided if application is made to the appropriate county board of public assistance. When any such application is made the county board of assistance shall authorize payment for necessary medical, dental or surgical care as assistance, as defined in the standards, rules and regulations established by the Secretary of Public Assistance, in consultation with the Secretary of Health and the Superintendent of Public Instruction, and with the approval of the State Board of Public Assistance. In instances where it appears that the parent or guardian was financially able to pay for the medical, dental or surgical care, for which payment was made on the authorization of a county board of assistance, the Department of Public Assistance shall have full recourse to recover the amounts thus expended from the parent or guardian liable for the support of such child, as provided in the support law.

## ARTICLE XV.

## TERMS AND COURSES OF STUDY.

## (a) School Terms.

Section 1501. Minimum Number of Days; School Month.—All public elementary and secondary schools shall be kept open each year for at least one hundred eighty (180) days. Unless otherwise provided by this

: Act 1974-67 (H.B. 1364), P.L. 258, § 1, approved Apr. 11, 1974, eff. immediately.

258

Act No. 67

LAWS OF PENNSYLVANIA

No. 67

AN ACT

HB 1364

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," requiring that children be immunized against such diseases as may be specified by the Advisory Health Board prior to entering school.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949," affected by the act of March 27, 1972 (P.L.154, No.58), is amended by adding a section to read:

**Section 1303. Immunization Required; Penalty.**—(a) *It shall be the duty of all school directors, superintendents, principals, or other persons in charge of any public, private, parochial, or other school including kindergarten, to ascertain that every child, prior to admission to school for the first time has been immunized, as the Secretary of Health may direct, against such diseases as shall appear on a list to be made and from time to time reviewed by the Advisory Health Board. All certificates of immunization shall be issued in accordance with the rules and regulations promulgated by the Secretary of Health with the sanction and advice of the Advisory Health Board.*

(b) *Any person who shall fail, neglect, or refuse to comply with, or who shall violate, any of the provisions or requirements of this section, except as hereinafter provided, shall, for every such offense, upon summary conviction thereof, be sentenced to pay a fine of not less than five dollars (\$5) nor more than one hundred dollars (\$100), and in default thereof, to undergo an imprisonment in the jail of the proper county for a period not exceeding sixty (60) days. All such fines shall be paid into the treasury of the school district.*

(c) *The provisions of this section shall not apply in the case of any child deemed to have a medical contraindication which may contraindicate immunization and so certified by a physician. Such certificates may be accepted in lieu of a certificate of immunization.*

(d) *The provisions of this section shall not apply in the case of any child whose parent or guardian objects in writing to such immunization on religious grounds.*

Section 2. This act shall take effect immediately.

SESSION OF 1974

Act No. 67

259

APPROVED--The 11th day of April, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly  
No. 67.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style with a large initial "C" and a prominent "T" at the end.

*Secretary of the Commonwealth.*

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\*\*\* Current through the January 2013 Session \*\*\*

\*\*\* Annotations current through June 19, 2013 \*\*\*

TITLE 16. EDUCATION  
 CHAPTER 38. OFFENSES PERTAINING TO SCHOOLS [SEE TITLE 16  
 CHAPTER 97 -- THE RHODE ISLAND BOARD OF EDUCATION ACT]

[Go to the Rhode Island Code Archive Directory](#)

**R.I. Gen. Laws § 16-38-2** (2013)

**§ 16-38-2.** Immunization

(a) Every person upon entering any public or private school including any college or university in this state as a pupil shall furnish to the administrative head of the school evidence that the person has been immunized against any diseases that may from time to time be prescribed by regulation of the director of health and tested for tuberculosis, or a certificate from a licensed physician stating that the **person is not a fit subject for immunization for medical reasons**, or a certificate signed by the pupil, if over eighteen (18) years of age, or by the parent or guardian stating **that immunization and/or testing for communicable diseases is contrary to that person's religious beliefs**. It shall be the responsibility of the administrative head of the school to secure compliance with these regulations.

(b) Every child more than twenty-four (24) months of age, resident in the state of Rhode Island, shall be eligible to receive the immunization against meningococcal disease. The Department of Health shall include meningococcal vaccine in the department's immunization program, established by § 23-1-44.

**HISTORY:** G.L. 1896, ch. 65, § 14; G.L. 1909, ch. 73, § 10; P.L. 1915, ch. 1201, § 1; G.L. 1923, ch. 77, § 9; P.L. 1925, ch. 644, § 1; G.L. 1938, ch. 198, § 8; G.L. 1956, § 16-38-2; P.L. 1961, ch. 133, § 4; P.L. 1968, ch. 188, § 1; P.L. 1969, ch. 138, § 1; P.L. 1979, ch. 175, § 1; P.L. 1993, ch. 253, § 1; P.L. 1993, ch. 406, § 1; P.L. 1998, ch. 34, § 1.

1979 ; P.L. 1979, ch. 175, § 1 (Effective May 4, 1979)

710 JANUARY SESSION, 1979—CHAPTER 175.

be appointed for a term of two (2) years and one (1) for a term of three (3) years. The members shall annually elect one (1) of them as chairman of the commission."

Annual  
appropriation.

Sec. 2. To accomplish the purposes of this article, the General Assembly shall annually appropriate such sums as it deems necessary.

Article effective,  
when.

Sec. 3. This article shall take effect upon passage.

## ARTICLE XVII.

### Effective Date

Act effective,  
when.

Section 1. This act shall take effect upon its passage, except as otherwise provided herein, and all acts and parts of acts inconsistent herewith are hereby repealed.

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## CHAPTER 175.

79-H 5034  
Approved  
May 4, 1979.

### AN ACT Relating to Offenses Pertaining to Schools.

It is enacted by the General Assembly as follows:

Section 1. Section 16-38-2 of the General Laws in Chapter 16-38 entitled "Offenses Pertaining to Schools" is hereby amended to read as follows:

Students—  
Proof of  
immunization.

"16-38-2. IMMUNIZATION. — Every person upon ~~first~~ entering any public or private school including any college or university in this state as a pupil shall



## JANUARY SESSION, 1979—CHAPTER 176. 711

furnish to the administrative head of such school Same.  
evidence that such person has been immunized against  
such diseases as may from time to time be prescribed  
by regulation of the director of health and the com-  
missioner of education, or a certificate from a licensed  
physician stating that such person is not a fit subject  
for immunization for medical reasons or a certificate  
signed by the parent or guardian stating that immuni-  
zation is contrary to his beliefs."

Sec. 2. This act shall take effect upon its passage. Act effective,  
when.

## CHAPTER 176.

**AN ACT** Relating to the Penalty for Malicious Dam- 79-H 5630  
Approved  
May 4, 1979.  
age to Street Lights in the City of Warwick.

It is enacted by the General Assembly as follows:

Section 1. Section 45-6-2.2 of the general laws in Warwick:  
chapter 45-6 entitled "Ordinances" is hereby amended  
to read as follows:

"45-6-2.2. IMPOSITION OF PENALTY FOR IL- Penalty for  
malicious dam-  
age to street  
lights.  
LEGAL DUMPING OR MALICIOUS DAMAGE TO  
STREET LIGHTS IN THE CITY OF WARWICK. —

\* \* \*

The city of Warwick may by ordinance impose a  
penalty that those persons who are found guilty of  
malicious damage to street lights in the city shall in  
addition to any other penalty imposed by a court,  
impose a fine equivalent to the replacement cost and  
labor charges of such street lights. However, in no  
case shall the fine imposed exceed \$500."

Sec. 2. This act shall take effect upon its passage. Act effective,  
when.

1993 P.L. 1993, ch. 253, § 1 (Effective July 26, 1993)

JANUARY SESSION, 1993

1163

deceased veterans of any such war, shall hereafter be construed to provide for like benefits and privileges for any man or woman of the armed forces, who has been engaged heretofore, is now, or may hereafter be engaged in the active conduct of and/or fighting in the Korean campaign or the conflict in Vietnam or any following campaign or war, declared or undeclared, which the armed forces of the United States of America conduct or in which said forces have a part, and who, having been actively engaged as hereinbefore described, has heretofore or may hereafter be honorably discharged from the armed forces of this nation, and to the widow or other surviving kin of any such deceased veteran of said campaign or war. For the purposes of this section, "Active conduct of and/or fighting in the conflict in Vietnam" shall mean service by any man or woman of the armed forces of the United States on and after August--5, 1964 December 22, 1961.

SECTION 4. This act shall take effect upon passage.

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## CHAPTER 253

93-S 453A am

Approved July 26, 1993.

### **AN ACT RELATING TO IMMUNIZATION AND TUBERCULOSIS TESTING REQUIREMENTS**

**It is enacted by the General Assembly as follows:**

SECTION 1. Section 16-38-2, of the General Laws in Chapter 16-38 entitled "Offenses Pertaining to Schools" is hereby amended to read as follows:

#### **16-38-2. Immunization. --**

Every person upon entering any public or private school including any college or university in this state as a pupil shall furnish to the administrative head of the school evidence that the person has been immunized against such diseases as may from time to time be prescribed by regulation of the director of health and tested for tuberculosis and--the ~~commissioner-of-elementary-and-secondary-education,~~ or a certificate from a licensed physician stating that the person is not a fit subject for immunization for medical reasons or a certificate signed by the pupil, if

1164

JANUARY SESSION, 1993

over eighteen (18) years of age, or by the parent or guardian stating that immunization and/or testing for communicable diseases is contrary to that person's religious beliefs. It shall be the responsibility of the administrative head of the school to secure compliance with these regulations.

SECTION 2. Section 23-1-18 of the General Laws in Chapter 23-1 entitled "Department of Health" is hereby amended to read as follows:

23-1-18. Power to provide rules and regulations in specific areas.

--  
Without limiting the generality of the foregoing, the rules and regulations relating to sanitation and health provided for by section 23-1-17 may include:

(1) Provisions fixing responsibilities of owners, operators, and occupants of land or buildings for the sanitary condition, maintenance, use, and occupancy of the land and buildings.

(2) Minimum standards with respect to the reporting of any disease and the quarantine of persons affected by that disease.

(3) Minimum standards and conditions for the location, construction and sanitary quality of all drinking water supplies.

(4) Minimum standards for facilities and sanitary conditions for schools and the health care for school children.

(5) Minimum standards with respect to the maintenance and operation of food businesses.

(6) Minimum standards of air quality consistent with human health.

(7) Minimum standards consistent with human health for the quality of the waters of the state.

(8) Minimum standards consistent with human health for the quality of public drinking water.

(9) Minimum standards for immunization and testing for communicable diseases, including, but not limited to tuberculosis, of employees, children and students at any child day-care center, family day-care home,

1993 P.L. 1993, ch. 406, § 1 (July 23, 1993)

1638

JANUARY SESSION, 1993

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CHAPTER 405

93-H 5874 am

Approved Jul. 29, 1993.

**AN ACT RELATING TO BUSINESSES AND PROFESSIONS -- AUTOMOBILE REPAIRER  
CERTIFICATIONS**

**It is enacted by the General Assembly as follows:**

SECTION 1. CHAPTER 5-38 OF THE GENERAL LAWS ENTITLED "AUTOMOBILE  
BODY REPAIR SHOPS" IS HEREBY AMENDED BY ADDING THERETO THE FOLLOWING  
SECTION:

**5-38-28. Repair certification form. --**

The director of the department of business regulation is authorized to  
create a work completion certification form which shall be executed by an  
insured and the automobile repairer and which shall certify under the  
penalties of perjury, the repairs to a particular vehicle that have actu-  
ally been made.

SECTION 2. This act shall take effect upon passage.

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CHAPTER 406

93-H 5990A

Approved Jul. 23, 1993.

**AN ACT RELATING TO IMMUNIZATION AND TUBERCULOSIS TESTING REQUIREMENTS**

**It is enacted by the General Assembly as follows:**

SECTION 1. Section 16-38-2, of the General Laws in Chapter 16-38  
entitled "Offenses Pertaining to Schools" is hereby amended to read as  
follows:

## JANUARY SESSION, 1993

1639

16-38-2. Immunization. --

Every person upon entering any public or private school including any college or university in this state as a pupil shall furnish to the administrative head of the school evidence that the person has been immunized against such diseases as may from time to time be prescribed by regulation of the director of health and tested for tuberculosis and the commissioner-of-elementary-and-secondary-education, or a certificate from a licensed physician stating that the person is not a fit subject for immunization for medical reasons or a certificate signed by the parent or guardian stating that immunization or testing for communicable diseases is contrary to that person's religious beliefs. It shall be the responsibility of the administrative head of the school to secure compliance with these regulations.

SECTION 2. Section 23-1-18 of the General Laws in Chapter 23-1 entitled "Department of Health" is hereby amended to read as follows:

23-1-18. Power to provide rules and regulations in specific areas.

--  
Without limiting the generality of the foregoing, the rules and regulations relating to sanitation and health provided for by section 23-1-17 may include:

(1) Provisions fixing responsibilities of owners, operators, and occupants of land or buildings for the sanitary condition, maintenance, use, and occupancy of the land and buildings.

(2) Minimum standards with respect to the reporting of any disease and the quarantine of persons affected by that disease.

(3) Minimum standards and conditions for the location, construction and sanitary quality of all drinking water supplies.

(4) Minimum standards for facilities and sanitary conditions for schools and the health care for school children.

(5) Minimum standards with respect to the maintenance and operation of food businesses.

(6) Minimum standards of air quality consistent with human health.

1998 **P.L. 1998, ch. 34, § 1** (Effective September 1, 1998)

**JANUARY SESSION, 1998 — Chapter 34**

**209**

All DNA profiles and samples submitted to the department of health pursuant to this chapter shall be treated as confidential and exempt from the provisions of chapter 38-2 except as otherwise provided in this act.

**12-1.5-17. Convicted persons. Refusal to give DNA sample.—**

Any person who is required to have a DNA sample taken, who refuses to do so, and who knowingly violently resists the taking of a DNA sample duly authorized by medical personnel, shall be in violation of the terms of his/her release, regardless of whether or not such term was a special condition of his/her release on probation, parole, or home confinement or other form of supervised release.

**12-1.5-18. Interpretation and severability.—**

The provisions of this chapter shall be liberally construed and shall be held to be in addition to, and not in substitution for or a limitation of, the provisions of any other law. If any provision or part thereof of this chapter or application thereof to any person or circumstances is held unconstitutional or otherwise invalid, the remainder of the chapter and the application of such provisions to any other persons or circumstances other than those to which it is held invalid shall not be affected thereby.

SECTION 2. This act shall take effect upon passage.

**Chapter 34**

**98—H 7199B**

**Enacted 6/29/98**

**AN ACT  
RELATING TO OFFENSES PERTAINING TO SCHOOLS**

Introduced By: Reps. Barr and Menard

Date Introduced: January 8, 1998

It is enacted by the General Assembly as follows:

SECTION 1. Section 16-38-2 of the General Laws in Chapter 16-38 entitled "Offenses Pertaining to Schools" is hereby amended to read as follows:

**16-38-2. Immunization.—**

(a) Every person upon entering any public or private school including any college or university in this state as a pupil shall furnish to the administrative head of the school evidence that the person has been immunized against such diseases as may from time to time be prescribed by regulation of the director of health and tested for tuberculosis, or a certificate from a licensed physician stating that the person is not a fit subject for

immunization for medical reasons, or a certificate signed by the pupil, if over eighteen (18) years of age, or by the parent or guardian stating that immunization and/or testing for communicable diseases is contrary to that person's religious beliefs. It shall be the responsibility of the administrative head of the school to secure compliance with these regulations.

(b) Every child more than twenty four (24) months of age, resident in the State of Rhode Island, shall be eligible to receive the immunization against meningococcal disease. The Department of Health shall include meningococcal vaccine in the department's immunization program, established by 23-1-44.

SECTION 2. This act shall take effect on September 1, 1998.

## Chapter 35

9 8—H 7332

Enacted 6/29/98

### AN ACT RELATING TO THE TOWN OF CHARLESTOWN—JUVENILE HEARING BOARD

Introduced By: Representatives Kennedy and Garvey

Date Introduced: January 15, 1998

It is enacted by the General Assembly as follows:

SECTION 1. For purposes of promoting the public health, safety, morals or general welfare the town council of the town of Charlestown shall have the power in accordance with the provisions of this act within the limits of said town by ordinance, to pass, ordain, establish and amend an ordinance to establish a juvenile hearing board.

Without limiting the generality of the aforementioned, such ordinances shall include the following provisions:

#### Section 1. Establishment.—

Pursuant to chapter 45-2 of the Rhode Island general laws, a juvenile hearing board shall be established in the town of Charlestown for the purpose of hearing all cases referred to it by the juvenile division of the police department or the chief of police with respect to persons under the age of eighteen (18) who are charged with violating the criminal laws of the state of Rhode Island or the town of Charlestown.

#### Section 2. Membership.—

(a) The membership of the Charlestown Juvenile Hearing Board (the board) shall consist of not less than five (5) nor more than seven (7) electors of the Charlestown over the age of eighteen (18) years.

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\*\*\* This document is current through all Legislation enacted in the 2013 Session  
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\*\*\* The most current annotation is dated September 12, 2013 \*\*\*

TITLE 44. HEALTH  
 CHAPTER 29. CONTAGIOUS AND INFECTIOUS DISEASES

S.C. Code Ann. § 44-29-180 (2013)

§ 44-29-180. School pupils and day care center children to be vaccinated or immunized; department to monitor immunization records of children in day care; exemptions and exclusions.

(A) No superintendent of an institution of learning, no school board or principal of a school, and no owner or operator of a public or private childcare facility as defined in Section 63-13-20 may admit as a pupil or enroll or retain a child or person who cannot produce satisfactory evidence of having been vaccinated or immunized so often as directed by the Department of Health and Environmental Control. Records of vaccinations or immunizations must be maintained by the institution, school, or day care facility to which the child or person has been admitted.

(B) The Department of Health and Environmental Control shall monitor the immunization status of each child who is enrolled or retained in a licensed child day care facility or a registered church or religious child day care facility. The monitoring of day care facilities shall consist of a review of the immunization or vaccination records to insure that required immunizations are complete as recommended and routinely provided by the Department of Health and Environmental Control for all infants and children.

(C) South Carolina Department of Health and Environmental Control Regulation 61-8, as amended, "Vaccination, Screening and Immunization Regarding Contagious Diseases", and its exemptions apply to this section.

(D) A South Carolina Certificate of Special Exemption signed by the school principal, authorized representative, or day care director may be issued to transfer students while awaiting arrival of medical records from their former area of residence or to other students who have been unable to secure immunizations or documentation of immunizations already received. A South Carolina Certificate of Special Exemption may be issued only once and is valid for only



thirty calendar days from date of enrollment. At the expiration of this special exemption, the student must present a valid South Carolina Certificate of Immunization, a valid South Carolina Certificate of Medical Exemption, or a valid South Carolina Certificate of Religious Exemption.

(E) Registered family day care homes are exempt from requirements of this section.

**HISTORY:** 1962 Code § 32-694; 1952 Code § 32-694; 1942 Code § 5040; 1932 Code §§ 5012, 7363; Civ. C. '22 §§ 2323, 4495; Civ. C. '12 §§ 1582, 3061; 1905 (24) 869, 871; 1972 (57) 2767; 1993 Act No. 35, § 1.

**NOTES:** Code Commissioner's Note

At the direction of the Code Commissioner, "childcare facility" was substituted for "child day care facility" and the reference to § 20-7-2700 was changed to § 63-13-20 in subsection (A).

**NOTES:**

LexisNexis (R) Notes:

CROSS REFERENCES.--Penalty for violation of § 44-29-180, see S.C. Code Ann. § 44-29-190.

1905 ; 1905 (24) 869, 871 (approved & EFFECTIVE February 22, 1905)

## OF SOUTH CAROLINA.

869

age, and its provisions shall apply only to the cities of Charleston, Greenville and Spartanburg, and to other corporations engaged exclusively in supplying water to said cities and to the inhabitants thereof.

A. D. 1905.

Approved the 21st day of February, A. D. 1905.

### No. 434.

AN ACT AUTHORIZING THE PASSAGE OF ORDINANCES BY INCORPORATED CITIES AND TOWNS, AND THE PROMULGATION OF RULES AND REGULATIONS BY THE STATE BOARD OF HEALTH, TO ENFORCE AND COMPEL THE VACCINATION AND REVACCINATION OF CITIZENS AND RESIDENTS OF THE STATE OF SOUTH CAROLINA; AND PRESCRIBING THE DUTIES OF CERTAIN OFFICIALS AND PERSONS TO THAT END, AND PROVIDING CERTAIN PENALTIES FOR FAILURE, REFUSAL OR NEGLECT TO COMPLY WITH THE PROVISIONS OF THE SAME.

SECTION 1. *Be it enacted* by the General Assembly of the State of South Carolina, The City or Town Council of every incorporated city or town in this State may provide by ordinance for the vaccination and revaccination with fresh bovine virus under the direction of the health authorities of said cities or towns, or of some competent physician appointed for that purpose, of all the citizens and residents of such cities and towns, excepting such persons as obtained the certificate of a reputable physician that vaccination would be dangerous to health. Such ordinances shall establish the periods of time, satisfactory to the State Board of Health, within which vaccination and revaccination shall be required; shall provide for vaccination and revaccination of indigent and pauper individuals at the expense of the city or town; and shall establish and provide penalties by quarantine and otherwise of such persons as are convicted of neglect or refusal to obey the provisions of such ordinances.

Cities and towns may pass ordinances for vaccination.

SEC. 2. The State Board of Health shall have general direction and supervision of vaccination and revaccination in all cities and towns, and shall in case of threatened epidemic of smallpox in any such community, and of insufficient ordinances therein, request the passage of the City or Town Council of a

Board of Health to have general supervision.

A. D. 1906.

new ordinance framed in accordance with the provisions of Section 1 of this Act. The State Board of Health shall have full and absolute control in matters of vaccination and revaccination of all persons within this State, who do not reside within the limits or jurisdiction of any incorporated city or town, and shall promulgate rules and regulations which shall have the force and effect of law for vaccination and revaccination of such persons under the supervision and direction of agents appointed by the said Board, and which shall contain provisions similar to those of Section 1 of this Act applying to ordinances, but such requirements may be modified by the State Board of Health in case of sparsely settled communities so as only to apply during apprehended danger of an epidemic of smallpox; and the necessary expense of such vaccination or revaccination shall be paid by the County Commissioners of the County within which the persons treated reside, and a bill or certificate of the services performed endorsed and approved by the State Board of Health shall be *prima facie* evidence of the existence and value of such services. The State Board of Health shall at all times keep in stock a supply of fresh bovine virus and supply the same to cities, towns and individuals without cost, that the charge for each vaccination under this Section shall not exceed ten cents.

If cities neglect so to do, Board of Health may pass rules.

SEC. 3. If the City or Town Council of any incorporated city or town shall neglect or refuse to pass an ordinance in accordance with the provisions of Section 1 of this Act, it shall be the duty of the State Board of Health to promulgate rules and regulations for the vaccination of the citizens and residents of such incorporated city or town, which rules and regulations shall have the force of an ordinance, and the State Board of Health shall have the power, and it is hereby made its duty, to enforce obedience to such rules and regulations by the promulgation and enforcement of proper quarantine regulations whenever the said Board shall deem it necessary for the preservation of the public health from possible danger of a threatened epidemic of smallpox, at the cost and expense of such incorporated city or town. In case such incorporated city or town shall refuse or neglect to reimburse the State Board of Health for all of the costs, charges and expenses incurred under this Section, including the cost of any necessary quarantine, then the State Board of Health is hereby empowered to collect the same by suit in any Court of

## OF SOUTH CAROLINA.

871

the State having jurisdiction, from such incorporated city or town, and a statement of such costs and expenses by the State Board of Health shall be *prima facie* evidence of the amount of said costs and expenses.

A. D. 1905.

SEC. 4. No Superintendent of any institution of learning, and no School Board, or Principal of any school in this State shall admit as a pupil any child or person who cannot produce satisfactory evidence of having been vaccinated so often as the ordinance of the city or town in which the school is located, or if not located within the city or town, so often as the rules and regulations of the State Board of Health may direct.

Pupils to be vaccinated.

SEC. 5. It is hereby made the duty of every parent, guardian or other person, charged with the care of or responsibility for any child, to see that such child is vaccinated so often as may be directed by ordinance of the incorporated city or town in which such child resides, or if not a resident of an incorporated city or town, so often as the rules and regulations of the State Board of Health may direct.

Parents, etc., to see that children are vaccinated.

SEC. 6. Any officer or person who shall fail, neglect or refuse to comply with any provision of this Act applicable to such officer or person, shall be guilty of a misdemeanor, and upon conviction thereof in a Court of competent jurisdiction, shall be fined in the sum of one hundred dollars or be imprisoned for thirty days.

Violation of this Act a misdemeanor.

SEC. 7. That all Acts and parts of Acts in conflict with the provisions of this Act be, and the same are hereby, repealed.

SEC. 8. This Act shall take effect immediately upon its approval by the Governor.

Approved the 22d day of February, A. D. 1905.

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### No. 435.

AN ACT TO AMEND SECTION 1525 OF THE CIVIL CODE, 1902, RELATING TO FENCES IN THE COUNTIES OF BERKELEY DORCHESTER AND HORRY.

SECTION 1. *Be it enacted* by the General Assembly of the State of South Carolina, That Section 1525 of the Civil Code, 1902, be amended on the second line by inserting between the

Civil Code, § 1525, amended.

6—A.

1972 1972 (57) 2767; (Effective July 7, 1972)

No. 1513]

OF SOUTH CAROLINA  
GENERAL AND PERMANENT LAWS—1972

2767

**SECTION 3. Penalties.**—Any person who violates any provision of this act shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed one hundred dollars or imprisoned for a term not to exceed thirty days.

**SECTION 4. Time effective.**—This act shall take effect upon approval by the Governor.

Approved the 7th day of July, 1972.

(R1808, H2504)

No. 1513

**An Act To Amend Section 32-694, Code Of Laws Of South Carolina, 1962, Relating To Vaccination Of School Pupils, So As To Restrict Required Vaccinations To Those Required By The State Board Of Health.**

Be it enacted by the General Assembly of the State of South Carolina:

**SECTION 1. Vaccination of school children required.**—Section 32-694 of the 1962 Code is amended by striking it out and inserting:

"Section 32-694. No superintendent of any institution of learning and no school board or principal of any school in this State shall admit as a pupil any child or person who cannot produce satisfactory evidence of having been vaccinated or immunized so often as directed by the State Board of Health."

**SECTION 2. Time effective.**—This act shall take effect upon approval by the Governor.

Approved the 7th day of July, 1972.

(R1801, H2106)

No. 1514

**An Act To Amend Section 32-696, Code Of Laws Of South Carolina, 1962, Relating To Penalties For Violations Of Certain Sections Of The Code Concerning Infectious And Contagious Disease, So As To Limit Penalties To Violations Of Section 32-694.**

Be it enacted by the General Assembly of the State of South Carolina:

1993 1993 Act No. 35, § 1. (Approved April 22, 1993)

60

**STATUTES AT LARGE**  
General and Permanent Laws—1993

(No. 35

may not be construed to apply to transfers of a patient within a mental health facility; or

(3) the legal guardian, parent, spouse, relative, or friend of an involuntary patient submits a request for the transfer of the patient from one facility to another and the reasons for desiring the transfer to the Department of Mental Health and unless the Department of Mental Health reasonably determines that it would be inconsistent with the medical needs of the person, the transfer must be made. If the transfer is from a less restricted to a substantially more secure facility, item (2) governs."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Approved the 23rd day of April, 1993.

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No. 35

(R66, H3436)

**AN ACT TO AMEND SECTION 44-29-180, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO IMMUNIZATIONS REQUIRED OF SCHOOL PUPILS, SO AS TO INCLUDE CHILDREN ATTENDING PUBLIC OR PRIVATE CHILD DAY CARE FACILITIES, TO REQUIRE THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO MONITOR IMMUNIZATION RECORDS OF CHILDREN IN DAY CARE, TO PROVIDE FOR A TEMPORARY AND A RELIGIOUS EXEMPTION, AND TO EXCLUDE FAMILY GROUP HOMES FROM THESE REQUIREMENTS.**

Be it enacted by the General Assembly of the State of South Carolina:

**Immunizations; required of school and day care center children**

SECTION 1. Section 44-29-180 of the 1976 Code is amended to read:

"Section 44-29-180. (A) No superintendent of an institution of learning, no school board or principal of a school, and no owner or operator of a

public or private child day care facility as defined in Section 20-7-2700 may admit as a pupil or enroll or retain a child or person who cannot produce satisfactory evidence of having been vaccinated or immunized so often as directed by the Department of Health and Environmental Control. Records of vaccinations or immunizations must be maintained by the institution, school, or day care facility to which the child or person has been admitted.

(B) The Department of Health and Environmental Control shall monitor the immunization status of each child who is enrolled or retained in a licensed child day care facility or a registered church or religious child day care facility. The monitoring of day care facilities shall consist of a review of the immunization or vaccination records to insure that required immunizations are complete as recommended and routinely provided by the Department of Health and Environmental Control for all infants and children.

(C) South Carolina Department of Health and Environmental Control Regulation 61-8, as amended, 'Vaccination, Screening and Immunization Regarding Contagious Diseases', and its exemptions apply to this section.

(D) A South Carolina Certificate of Special Exemption signed by the school principal, authorized representative, or day care director may be issued to transfer students while awaiting arrival of medical records from their former area of residence or to other students who have been unable to secure immunizations or documentation of immunizations already received. A South Carolina Certificate of Special Exemption may be issued only once and is valid for only thirty calendar days from date of enrollment. At the expiration of this special exemption, the student must present a valid South Carolina Certificate of Immunization, a valid South Carolina Certificate of Medical Exemption, or a valid South Carolina Certificate of Religious Exemption.

(E) Registered family day care homes are exempt from requirements of this section."

#### **Time effective**

**SECTION 2.** This act takes effect one hundred eighty days after approval by the Governor.

Approved the 22nd day of April, 1993.

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88th Regular Session, including Supreme Court Rule 13-17,  
and November 2012 ballot measures  
Annotations current through February 19, 2014

TITLE 13. EDUCATION  
CHAPTER 13-28. SCHOOL ATTENDANCE IN GENERAL

[GO TO SOUTH DAKOTA STATUTES ARCHIVE DIRECTORY](#)

**S.D. Codified Laws § 13-28-7.1** (2014)

**§ 13-28-7.1.** Communicable disease tests and immunizations -- Requirement for admission to school or early childhood program -- Alternatives to physician certification -- Rules to require compliance and documentation

Any pupil entering school or an early childhood program in this state, shall, prior to admission, be required to present to the appropriate school authorities certification from a licensed physician that the child has received or is in the process of receiving adequate immunization against poliomyelitis, diphtheria, pertussis, rubeola, rubella, mumps, tetanus, and varicella, according to recommendations provided by the Department of Health. The Department of Health may modify or delete any of the required immunizations. As an alternative to the requirement for a physician's certification, the pupil may present:

(1) Certification from a licensed physician stating the physical condition of the child would be such that immunization would endanger the child's life or health; or

(2) A written statement signed by one parent or guardian that the child is an adherent to a religious doctrine whose teachings are opposed to such immunization; or

(3) A written statement signed by one parent or guardian requesting that the local health department give the immunization because the parents or guardians lack the means to pay for such immunization.

The Department of Health may promulgate reasonable rules, in accordance



with chapter 1-26, to require compliance and documentation of adequate immunization, to define appropriate certification, and to specify standard procedure.

**HISTORY:** Source: SL 1971, ch 141; 1972, ch 97; 1978, ch 114; 1992, ch 129; 2000, ch 83, § 1; 2005, ch 101, § 1.

**NOTES:**

**AMENDMENTS.**

The 2005 amendment, in the introductory language, in the first sentence, deleted "child has received a test for tuberculosis and is free from a contagious form of tuberculosis and the child" following "that the child"; in subdivision (1), deleted "a test or" following "such that"; in subdivision (2), deleted "test and" following "such"; in subdivision (3), deleted "tests and" following "such"; and, in the concluding paragraph, substituted "promulgate" for "adopt."

1978 1978, ch 114 (Approved February 9, 1978)

EDUCATION

175

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 13-28-1 be amended to read as follows:

13-28-1. Every child who, before the first day of October, 1978, September, 1979, and any year following, shall have attained the age of five years and who has not attained the age of nineteen years, shall be deemed to be of legal school age.

Section 2. The effective date of this Act for a child who reached age five before the first day of November 1977 shall be July 1, 1979. However, for the purposes of determining number of classrooms, full-time employees, or appropriations based on minimum foundation formula for the school district, the effective date shall be July 1, 1979.

Approved February 14, 1978

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CHAPTER 113

(H.B. 1172)

SMALLPOX VACCINATIONS NO LONGER  
REQUIRED FOR SCHOOL ATTENDANCE

AN ACT

ENTITLED, An Act to repeal the requirement of smallpox vaccination for school attendance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That § 13-28-7 be repealed.

Approved February 9, 1978

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CHAPTER 114

(H.B. 1171)

IMMUNIZATION REQUIRED OF ALL SCHOOL STUDENTS

AN ACT

ENTITLED, An Act to require immunization of pupils entering school.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That § 13-28-7.1 be amended to read as follows:

13-28-7.1. Any pupil entering school in this state, shall, prior to admission, be required to present to the appropriate school author-

ities certification from a licensed physician that he has received a test for tuberculosis and is free from a contagious form of tuberculosis and he has received or is in the process of receiving adequate immunization against poliomyelitis, diphtheria, pertussis, rubeola, rubella, mumps and tetanus, according to recommendations provided by the department of health. The department of health may modify or delete any of the required immunizations. As an alternative to the requirement for a physician's certification, the pupil may present:

- (1) Certification from a licensed physician stating the physical condition of the child would be such that a test or immunization would endanger his life or health; or
- (2) A written statement signed by one parent or guardian that the child is an adherent to a religious doctrine whose teachings are opposed to such test and immunization; or
- (3) A written statement signed by one parent or guardian requesting that the local health department give the test and immunization because the parents or guardians lack the means to pay for such tests and immunization.

The department of health may adopt reasonable rules, in accordance with chapter 1-26, to require compliance and documentation of adequate immunization, to define appropriate certification, and to specify standard procedure.

Approved February 9, 1978

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#### CHAPTER 115

(H.B. 1201)

#### CHOICES AUTHORIZED FOR TRANSPORTATION OF JUNIOR HIGH SCHOOL STUDENTS

#### AN ACT

ENTITLED, An Act to permit transportation or room and board allowance for junior high students.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That § 13-30-1 be amended by adding thereto a new subdivision to read as follows:

A school district having a junior high school may provide mileage, bus service, or board and room for junior high school students at the discretion of the school board.

Approved February 23, 1978

1992 ; 1992, ch 129 (Effective July 1, 1992)

EDUCATION - Chapter 129

183

standardized achievement test of the basic skills. The test shall be the same test designated to be used in the public school district where the child is instructed and may be monitored by a designee from the local school district where the child is instructed. The test shall be provided by the school district where the child is instructed. The secretary of the department of education and cultural affairs or his designee may visit any alternative education program at reasonable times during the school year.

Section 2. That § 13-27-7 be amended to read as follows:

13-27-7. All applications for excuse from school attendance shall be on a standard form acknowledged before a notary or two witnesses. The form shall be provided by the secretary of the department of education and cultural affairs. If the application is granted, a certificate of excuse also provided by the secretary of the department of education and cultural affairs shall be issued by the president of the school board having jurisdiction over the district in which the child has school residence, ~~stating the reason for the excuse and. The certificate of excuse shall be~~ for a period not to exceed one year ~~and shall state the reason for the excuse is that the child will receive alternative instruction.~~ Upon a showing by the secretary of the department of education and cultural affairs that a child excused from school attendance pursuant to § 13-27-3 is not being instructed in compliance with § 13-27-3, the school board may immediately revoke the child's certificate of excuse.

All test scores required by § 13-27-3 shall be kept on file in the public school of the district where the child has school residence. If subsequent achievement test results reveal less than satisfactory academic progress in the child's level of achievement, the school board may refuse to renew the child's certificate of excuse.

Signed February 12, 1992.

CHAPTER 129

(HB 1261)

PUPILS IN EARLY CHILDHOOD PROGRAMS  
MUST HAVE CERTAIN TESTS AND IMMUNIZATIONS

AN ACT ENTITLED, An Act to provide for the testing and immunization of certain prekindergarten children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That § 13-28-7.1 be amended to read as follows:

13-28-7.1. Any pupil entering school ~~or an early childhood program~~ in this state, shall, prior to admission, be required to present to the appropriate school authorities certification from a licensed physician that the child has received a test for tuberculosis and is free from a contagious form of tuberculosis and the child has received or is in the process of receiving adequate immunization against poliomyelitis, diphtheria, pertussis, rubeola, rubella, mumps and tetanus, according to recommendations provided by the department of health. The department of health may modify or delete any of the required immunizations. As an alternative to the requirement for a physician's certification, the pupil may present:

- (1) Certification from a licensed physician stating the physical condition of the child would be such that a test or immunization would endanger the child's life or health; or

- (2) A written statement signed by one parent or guardian that the child is an adherent to a religious doctrine whose teachings are opposed to such test and immunization; or
- (3) A written statement signed by one parent or guardian requesting that the local health department give the test and immunization because the parents or guardians lack the means to pay for such tests and immunization.

The department of health may adopt reasonable rules, in accordance with chapter 1-26, to require compliance and documentation of adequate immunization, to define appropriate certification, and to specify standard procedure.

Signed February 19, 1992.

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#### CHAPTER 130

(HB 1253)

#### TIME LIMIT PLACED ON REQUESTS TO HAVE SCHOOL BOARDS WAIVE TUITION PAYMENTS

AN ACT ENTITLED, An Act to revise the procedures which allow tuition to be waived by mutual agreement of school boards.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That § 13-28-22.2 be amended to read as follows:

13-28-22.2. Tuition required pursuant to § 13-28-22 may be waived if agreed to by the school boards involved. Notwithstanding §§ 13-28-9, 13-28-10, 13-28-21 and 13-6-85, the decision of a school board to waive or not to waive tuition is final. Any request for a waiver of tuition shall be made to the affected school boards no later than July first. A school board shall take action on the request within forty-five days after receiving the request.

Signed February 19, 1992.

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#### CHAPTER 131

(HB 1114)

#### TUITION RATE ESTABLISHED FOR ALTERNATIVE HIGH SCHOOLS FOR YOUTH AT RISK PROGRAMS

AN ACT ENTITLED, An Act to establish a tuition rate for accredited alternative high schools for youth at risk.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That § 13-28-26 be amended to read as follows:

13-28-26. The daily legal rate for tuition charged by a school board for a nonresident pupil enrolled in an elementary school program, including kindergarten and nursery schools, shall be eighty-five percent of the state daily per pupil cost. The daily legal rate for tuition for a nonresident pupil enrolled in a secondary school program shall be one hundred twenty percent of the state daily per pupil cost determined by the division of



2000 2000, ch 83, § 1; (Signed February 24, 2000)

EDUCATION - Chapter 83

139

Notwithstanding any other provision of law, no student may enroll in a school district pursuant to the provisions contained in §§ 13-28-40 to 13-28-47, inclusive, if that school district does not serve the student's grade level within the physical boundaries of the school district.

Signed February 18, 2000.

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## CHAPTER 83

(SB 42)

### Immunization to enter school, provisions revised.

ENTITLED, An Act require varicella immunization for school entry.

*BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:*

Section 1. That § 13-28-7.1 be amended to read as follows:

13-28-7.1. Any pupil entering school or an early childhood program in this state, shall, prior to admission, be required to present to the appropriate school authorities certification from a licensed physician that the child has received a test for tuberculosis and is free from a contagious form of tuberculosis and the child has received or is in the process of receiving adequate immunization against poliomyelitis, diphtheria, pertussis, rubeola, rubella, mumps and, tetanus, and varicella, according to recommendations provided by the Department of Health. The Department of Health may modify or delete any of the required immunizations. As an alternative to the requirement for a physician's certification, the pupil may present:

- (1) Certification from a licensed physician stating the physical condition of the child would be such that a test or immunization would endanger the child's life or health; or
- (2) A written statement signed by one parent or guardian that the child is an adherent to a religious doctrine whose teachings are opposed to such test and immunization; or
- (3) A written statement signed by one parent or guardian requesting that the local health department give the test and immunization because the parents or guardians lack the means to pay for such tests and immunization.

The Department of Health may adopt reasonable rules, in accordance with chapter 1-26, to require compliance and documentation of adequate immunization, to define appropriate certification, and to specify standard procedure.

Signed February 24, 2000.

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## CHAPTER 84

(HB 1058)

### Special education various provisions revised.

**CHAPTER 100****(SB 72)****Legal costs are an allowable expense for special education fund.**

ENTITLED, An Act to include legal costs as allowable expenditures from the special education fund.

*BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:*

Section 1. That § 13-16-32 be amended to read as follows:

13-16-32. The South Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to identify allowable expenditures from the special education fund. Legal costs incurred by a school district as a direct result of providing special education or special education and related services to a child for whom the district is financially responsible are allowable expenditures. The allowable expenditures may include any legal costs incurred by the school district in the referral, evaluation, and placement processes as well as any other legal expenses for which the district is determined to be legally responsible to pay as a result of due process hearings.

Section 2. That § 13-37-48 be repealed.

Signed March 7, 2005

**CHAPTER 101****(SB 39)****Tuberculosis, requirement to be screened is repealed.**

ENTITLED, An Act to repeal the requirement for tuberculosis screening for school students and employees.

*BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:*

Section 1. That § 13-28-7.1 be amended to read as follows:

13-28-7.1. Any pupil entering school or an early childhood program in this state, shall, prior to admission, be required to present to the appropriate school authorities certification from a licensed physician that the child ~~has received a test for tuberculosis and is free from a contagious form of tuberculosis and the child~~ has received or is in the process of receiving adequate immunization against poliomyelitis, diphtheria, pertussis, rubeola, rubella, mumps, tetanus, and varicella, according to recommendations provided by the Department of Health. The Department of Health may modify or delete any of the required immunizations. As an alternative to the requirement for a physician's certification, the pupil may present:

- (1) Certification from a licensed physician stating the physical condition of the child would be such that ~~a test or~~ immunization would endanger the child's life or health; or
- (2) A written statement signed by one parent or guardian that the child is an adherent to a religious doctrine whose teachings are opposed to such ~~test and~~ immunization; or

- (3) A written statement signed by one parent or guardian requesting that the local health department give the ~~test and~~ immunization because the parents or guardians lack the means to pay for such ~~tests and~~ immunization.

The Department of Health may ~~adopt~~ promulgate reasonable rules, in accordance with chapter 1-26, to require compliance and documentation of adequate immunization, to define appropriate certification, and to specify standard procedure.

Section 2. That § 13-28-7.2 be amended to read as follows:

13-28-7.2. The local board of health, upon application of the school board of any school affected by § 13-28-7.1 shall, at public expense to the extent that funds are available and without delay, provide the ~~test for tuberculosis and the~~ immunizations required by § 13-28-7.1 to such pupils as are not provided ~~therewith~~ the immunizations by their parents or guardians and who have not been exempted.

Section 3. That § 13-43-3 be amended to read as follows:

13-43-3. The school board of a public or the governing body of a nonpublic school shall require each employee, each student teacher, and each person providing services for pupils under contract, who is in regular contact with pupils, to submit, within ten days after first being employed, a certification of health signed by a licensed physician, nurse practitioner, certified nurse midwife, or ~~physician's~~ physician assistant. The certification shall include a statement that there is no evidence of physical condition that would endanger health, safety, or welfare of the pupils in the initial examination. ~~Certification of freedom from tuberculosis shall be established by chest X-ray or negative tuberculin skin tests. The secretary of the Department of Health shall prescribe the form for the certification of health and the certification of freedom from tuberculosis.~~

Section 4. That § 13-43-3.1 be repealed.

Section 5. That § 13-43-3.2 be repealed.

Signed February 8, 2005

## CHAPTER 102

(HB 1149)

### Cross-border education contracts with North Dakota schools.

ENTITLED, An Act to allow the Department of Education to enter into certain enrollment agreements with the State of North Dakota and to compensate certain school districts for lost revenue due to the agreements.

*BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:*

Section 1. The secretary of the Department of Education may enter into agreements with the appropriate parties from the state of North Dakota to establish an enrollment options program between South Dakota and North Dakota.

Section 2. Any agreement entered into pursuant to this Act shall specify the following:

- (1) For students who are not residents of South Dakota, the enrollment options program applies only to a student whose resident school district borders South Dakota;



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\*\*\* Current through the 2013 Regular Session \*\*\*  
Annotations current through January 10, 2014 for the Tennessee Supreme Court

Title 49 Education  
Chapter 6 Elementary and Secondary Education  
Part 50 Immunization of School Children

[GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY](#)

Tenn. Code Ann. § 49-6-5001 (2013)

49-6-5001. General provisions.

(a) The commissioner of health is authorized, subject to the approval of the public health council, to designate diseases against which children must be immunized prior to attendance at any school, nursery school, kindergarten, preschool or child care facility of this state.

(b) (1) It is the responsibility of the parents or guardian of children to have their children immunized, as required by subsection (a).

(2) In the absence of an epidemic or immediate threat of an epidemic, this section shall not apply to any child whose parent or guardian files with school authorities a signed, written statement that the immunization and other preventive measures conflict with the parent's or guardian's religious tenets and practices, affirmed under the penalties of perjury.

(c) (1) No children shall be permitted to attend any public school, nursery school, kindergarten, preschool or child care facility until proof of immunization is given the admissions officer of the school, nursery school, kindergarten, preschool or child care facility except as provided in subsection (b).

(2) No child shall be denied admission to any school or school facility if the child has not been immunized due to medical reasons if the child has a written statement from the child's doctor excusing the child from the immunization.

(3) No child or youth determined to be homeless shall be denied admission to any school or school facility if the child or youth has not yet been immunized or is unable to produce immunization records due to being homeless. The enrolling school shall comply with any and all federal laws pertaining to the educational rights of homeless children and youth, including the McKinney-Vento Homeless Assistance Act, compiled in 42 U.S.C. § 1141 et seq.

(d) Each child attending any school, nursery school, kindergarten, preschool or child care facility without furnishing proof of immunization or exception under subsection (b) or (e), shall not be counted in the average daily attendance of students for the distribution of state school funds.

(e) Any immunization specified under this part shall not be required if a qualified physician certifies that administration of the immunization would be in any manner harmful to the child involved.

(f) The commissioner shall promulgate rules and regulations necessary to carry out this section.

(g) By October 1 of each year, the commissioner shall report the number of children in the state during the preceding school year who were determined to be homeless and who enrolled in public schools without being immunized or being able to produce immunization records and the average length of time required for these children to be immunized or to obtain their immunization records. The report shall be submitted to the education committees of the senate and of the house of representatives.

**HISTORY:** Acts 1967, ch. 293, §§ 1-5; 1978, ch. 922, §§ 1, 2; T.C.A., §§ 49-1765 -- 49-1769; Acts 1984, ch. 839, § 2; 1996, ch. 1079, § 183; 2006, ch. 756, § 2; 2007, ch. 57, § 1.

1967 Acts 1967, ch. 293, §§ 1-5

Chapter 293] PRIVATE ACTS, 1967 1137

This is to certify that according to the official records on file in this office, House Bill No. 1138, which is Chapter No. 292 of the Private Acts of 1967, was properly ratified and approved and is therefore operative and in effect in accordance with its provisions.

JOE C. CARR,  
*Secretary of State.*

## CHAPTER NO. 293

### HOUSE BILL NO. 1139

(By Bruce, Hawks, Avery, Person, Weldon, Lucas,  
Farley, Sugarmon, Gill, Huettel, Dunavant, Burch,  
Smith, Willis, Patterson, Peeples)

SUBSTITUTED FOR: SENATE BILL NO. 1108

(By White, Canale, Elam, Farmer)

AN ACT to amend Chapter 25 of the Private Acts of 1943, as amended by Chapter 319 of the Private Acts of 1961, entitled: "AN ACT to amend Chapter 11 of the Acts of the General Assembly of the State of Tennessee for the year 1879, entitled: 'A Bill to establish taxing districts in this state and to provide the means of local government for the same,' and all Acts amendatory thereof, constituting the Charter of the City of Memphis, be and the same are hereby amended so as to provide that the City of Memphis, shall have authority to acquire, purchase, construct, extend, own, maintain and operate a system of street railroads and/or electric coaches, and/or motor busses for the transportation for hire of passengers and their personal baggage upon any or all streets in the City of Memphis and any or all highways in Shelby County; to authorize the City of Memphis Transit Authority to lease its transportation equipment, to properly authorized operators of charter service, to points outside of Shelby County, Tennessee; to furnish operators for such equipment when it considers such action to be necessary and to contract with various states for transportation matters when petitioned to do so by the authorized representative of any political sub-division when in the judgment of said political sub-division private carriers cannot provide mass transportation and with the approval of

such state authorities as are required where said political sub-division is located and the further compliance with all applicable federal regulations; and so as to provide that said system for the transportation of passenger shall be under the jurisdiction, control and management of Memphis Transit Authority, to be constituted and conducted as hereinafter set forth."

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That Chapter 26 of the Private Acts of the General Assembly of the State of Tennessee for the year 1934 and Chapter 319 of the Private Acts of the General Assembly of the State of Tennessee for the year 1961, be, and the same are hereby amended by striking out in its entirety Section 1 of Chapter 319 of the Private Acts of 1961, and inserting in lieu thereof the following:

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That Chapter 11 of the Acts of 1879, entitled, "A Bill to establish taxing districts in this State and to provide the means of local government for the same," and all Acts amendatory thereof, constituting the Charter of the City of Memphis, be, and the same are hereby amended so as to provide that the City of Memphis shall have authority to acquire, purchase, construct, extend, own, maintain and operate a system of street railroads, and/or electric coaches, and/or motor busses for the transportation for hire of passengers and their personal baggage upon any or all streets in the City of Memphis and any or all highways in Shelby County to lease its transportation equipment, to properly authorized operators of charter service, to points outside of Shelby County, Tennessee; to furnish operators for such equipment when it considers such action to be necessary and to contract with various states and political sub-divisions when in the judgment of such political sub-division private carriers cannot

provide mass transportation and with the approval of such state authorities as are required where said political sub-division is located and further compliance with all applicable federal regulation; and so as to provide that said system for the transportation of passengers shall be under the jurisdiction, control and management of Memphis Transit Authority to be constituted and conducted as hereinafter set forth."

SECTION 2. *Be it further enacted*, That this Act shall become effective when, and not before, the same shall have been approved by the Board of Commissioners of the City of Memphis by a vote of not less than two-thirds (2/3's) of the members of said Board, such approval to be made by them within sixty (60) days after the sine die adjournment of the General Assembly of the State of Tennessee for the year 1967, the public welfare requiring this becoming effective at that time, and not before such approval. The approval or non-approval of this Act by the Board of Commissioners shall be certified by the Mayor of the City of Memphis to the Secretary of State.

Passed: May 18, 1967.

JAMES H. CUMMINGS,  
*Speaker of the House of Representatives.*

FRANK C. GORRELL,  
*Speaker of the Senate.*

Approved: May 24, 1967.

BUFORD ELLINGTON,  
*Governor.*

1978 ; 1978, ch. 922, §§ 1, 2 (Effective July 1, 1978)

**CHAPTER 922] PUBLIC ACTS 1978**

1307

**John S. Wilder,  
SPEAKER OF THE SENATE**

**APPROVED: May 9, 1978**

**Ray Blanton,  
GOVERNOR**

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**CHAPTER NO. 922**

**SENATE BILL NO. 1587**

**By O'Brien**

**Substituted for: House Bill No. 1582**

**By Bragg, Love**

**AN ACT To amend Tennessee Code Annotated, Sections 49-1765 and 49-1767, relative to immunization.**

**BE IT ENACTED BY THE GENERAL  
ASSEMBLY OF THE STATE OF TENNESSEE:**

**SECTION 1.** Tennessee Code Annotated, Section 49-1765, is amended by deleting therefrom the words "entry into the schools of Tennessee", and substituting instead the words "attendance at any school, nursery school, kindergarten, preschool or day care facility of Tennessee".

**SECTION 2.** Tennessee Code Annotated, Section 49-1767, is amended by deleting the language contained therein in its entirety and substituting instead the following:

**No children shall be permitted to attend any public school, nursery school, kindergarten,**

preschool or day care facility until proof of immunization is given the admissions officer of the school, nursery school, kindergarten, preschool or day care facility except as provided in Tennessee Code Annotated, Section 49-1766, provided, however, that no child shall be denied admission to any school or school facility if such child has not been immunized due to medical reasons if such child has a written statement from his doctor excusing him from such immunization.

Each child attending any school, nursery school, kindergarten, preschool or day care facility without furnishing proof of immunization or exception under Section 49-1766 and/or Section 49-1768 of this code, shall not be counted in the average daily attendance of students for the distribution of state school funds.

SECTION 3. This act shall take effect July 1, 1978.

PASSED: April 27, 1978

John S. Wilder,  
SPEAKER OF THE SENATE

Ned R. McWherter,  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED: May 11, 1978

Ray Blanton,  
GOVERNOR

1984 Acts 1984, ch. 839, § 2;

Chapter No. 839]

PUBLIC ACTS 1984

699

CHAPTER NO. 839

SENATE BILL NO. 1349

By Person

Substituted for: House Bill No. 1408

By Davis (Gibson)

AN ACT To amend Tennessee Code Annotated, Sections 49-1765 through 49-1769, relative to immunization of school children.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-1767, is amended by adding new paragraphs thereto, as follows:

Proof of immunization shall be established by a certificate of immunization listing all immunizations which a child has received. Such certificates shall be signed by a physician or a health care provider administering immunizations. Beginning with the 1986 school year, all certificates of immunization shall be on forms furnished by the Department of Health and Environment.

The certificate of immunizations required of any child who has not received all immunizations required by the Commissioner of Health and Environment, under the provisions of Section 49-1765, shall be forwarded to the Commissioner. The Commissioner shall be responsible for monitoring the health records and notifying the student's legal guardian(s) and the local school system in the case of noncompliance with immunization requirements.

SECTION 2. Tennessee Code Annotated, Section 49-1766, is amended by deleting the second paragraph (Tennessee Code Annotated, Section 49-6-5001(b)(2)) and by substituting instead the following:

Provided, however, in the absence of an epidemic or immediate threat thereof, this section shall not apply to any child whose parent or guardian shall file with school authorities a signed, written statement that such immunization and other preventive measures conflict with his religious tenets and practices affirmed under the penalties of perjury.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 17, 1984

  
SPEAKER OF THE SENATE




700

PUBLIC ACTS 1984

[Chapter No. 840]

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED this 25<sup>th</sup> day of May 1984

  
GOVERNOR

CHAPTER NO. 840

SENATE BILL NO. 1359

By Lashlee

Substituted for: House Bill No. 1956

By Miller

AN ACT Relative to the curricula of certain educational institutions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. (a) Any educational institution which provides instruction in the management, operation, procedures or practice of the dispensing of alcoholic beverages or bartending shall include in such instruction the teaching of the problems of alcohol abuse and the effect of alcoholic consumption on highway safety.

(b) Any institution to which this act applies who shall fail to provide the instruction required by this act shall, upon hearing by the Tennessee Higher Education Commission, have their authorization to operate revoked.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 15, 1984

  
SPEAKER OF THE SENATE

1996 1996, ch. 1079, § 183; (Approved May 21, 1996)

024

PUBLIC ACTS, 1996

[Chapter No. 1079

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 1996

**DON SUNDQUIST, GOVERNOR**

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had House Bill No. 3165 in his possession longer than ten (10) days, so therefore, the bill becomes law without the Governor's signature

**CHAPTER NO. 1079**

**SENATE BILL NO. 3176**

By Person, Elise, Atchley, Jordan, Ford, Gilbert, Fowler, Miller, Rice

Substituted for: House Bill No. 3166

By Walley, Byrd, Brite, Davis, Beevers, Westmoreland, Phelan, Williams (Union)

AN ACT Relative to the provision of services for children and to amend Tennessee Code Annotated, Title 4, Title 7, Title 8, Title 10, Title 16, Title 33, Title 34, Title 36, Title 37, Title 38, Title 39, Title 40, Title 41, Title 49, Title 66, Title 68 and Title 71.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

**SECTION 1.** Tennessee Code Annotated, Title 4, Chapter 3, or other appropriate title and chapter of Tennessee Code Annotated as determined by the Code Commission, is amended by adding Sections 2 through 15 of this act as a new part.

**SECTION 2. Creation.** There is hereby created the Department of Children's Services.

**SECTION 3. Purpose.** Through the Department of Children's Services, Tennessee state government, in cooperation with juvenile courts, local communities, schools and families will strive to provide timely, appropriate and cost-effective services for children in state custody and at risk of entering state custody so that these children can reach their full potential as productive, competent and healthy adults. The Department of Children's Services is created to provide services to those children who are unruly, delinquent, dependent and neglected, and their respective families, as well as for children who are at imminent risk and in need of services to prevent entry into state custody, who are in state custody pending family reunification or other permanent placement, or as otherwise may be required for such children and their families pursuant to state law. The focus of the services shall be to preserve the relationship between the child and the family by providing, whenever possible, services in the community where the child lives and by providing the services in a setting which is the least restrictive and, yet, the most beneficial. For the children it serves, the Department of Children's Services shall strive: 1) to protect children from abuse, mistreatment or neglect; 2) to provide prevention, early intervention, rehabilitative and educational services; 3) to pursue appropriate and effective behavioral and mental health treatment; and 4) to ensure that health care needs, both preventive and practical, are met. The department will work to preserve the safety and protect the standards in Tennessee communities through efforts to combat delinquency and other social ills concerning young people. The Department of Children's Services shall work to continuously improve the management and coordination of services for the children and families of Tennessee identified in this section by ensuring thorough evaluations and assessments, appropriate and effective service delivery, timely permanency planning and supportive supervision and monitoring of the progress of children discharged from state custody.

SECTION 181. Tennessee Code Annotated, Section 71-3-533, is amended by deleting the section in its entirety and by substituting instead the following:

(a) A child welfare agency, as defined in §71-3-501, the Department of Children's Services, the Department of Human Services, the Department of Mental Health/Mental Retardation, any other state agency or any agency that contracts with the State of Tennessee, may require all persons applying to work with children in any capacity as a paid employee, a volunteer, a foster parent or an adoptive parent to:

(1) Agree to the release of all investigative records to the child welfare agency, the Department of Children's Services, the Department of Human Services, the Department of Mental Health and Mental Retardation, any other state agency or any agency that contracts with the State of Tennessee for the purpose of verifying the accuracy of criminal violation information contained on an application to work or volunteer, or to be a foster or adoptive parent with such agencies; and

(2) Supply a fingerprint sample and submit to a criminal history records check to be conducted by the Tennessee Bureau of Investigation.

(b) Any costs incurred by the Tennessee Bureau of Investigation in conducting such investigations of such applicants shall be paid by the child welfare agency, the Department of Children's Services, the Department of Human Services, the Department of Mental Health and Mental Retardation, any other state agency or any agency that contracts with the State of Tennessee requesting such investigation and information. Payment of such costs are to be made in accordance with the provisions of §38-6-103.

SECTION 182. Tennessee Code Annotated, Title 71, Chapter 3, Part 7, is amended by deleting the words "human services" wherever they appear and by substituting instead the words "children's services".

SECTION 183. Tennessee Code Annotated, Section 71-6-204(2), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(2) Comply with §§37-1-403 and 37-1-605 by reporting cases of suspected child abuse or neglect or child sexual abuse to the Department of Children's Services and comply with §71-6-103 by reporting suspected cases of adult abuse, sexual abuse, neglect or exploitation to the Department of Human Services.

SECTION \_\_\_\_\_. Tennessee Code Annotated, Section 37-1-102(b)(8), is amended by deleting the word "or" which is after the word and punctuation "drug," and by adding after the word "homicide" the following punctuation and words " or any other traffic offense classified as a felony".

SECTION \_\_\_\_\_. Tennessee Preparatory School. (a) The Tennessee Preparatory School, a special school of the State Board of Education as set out in Tennessee Code Annotated, Title 49, Chapter 50, Part 10, shall be operated by the Department of Children's Services on behalf of the State Board of Education.

(b) Notwithstanding any other provisions in this act or other acts creating the Department of Children's Services, the transfer of the Tennessee Preparatory School from the jurisdiction of the State Board of Education to the jurisdiction of the Department of Children's Services shall not, because of the transfer, result in any impairment, interruption or diminution of employee rights, privileges, salary, benefits, leave accumulation or employment. The Commissioner of the Department of Children's Services shall determine and remedy any impairment, interruption or diminution caused by the transfer.

(c) Initial placement at the Tennessee Preparatory School shall be limited to children who are at least twelve (12) years of age, but less than eighteen (18) years of age. The commissioner may make exception to the minimum age requirement for

younger siblings of a child who has been placed at Tennessee Preparatory School.

(d) To be eligible for placement at the Tennessee Preparatory School, the commissioner or his or her designee shall find that a child in the department's custody is without support, abandoned, neglected or an orphan, or is without suitable home, proper guardianship, or is in danger of becoming delinquent because of dependency or neglect. Further, a child that has been adjudicated delinquent by virtue of committing an act that would be a misdemeanor criminal act if committed by an adult and is not otherwise appropriate for placement at a youth development center may also be eligible for placement at the Tennessee Preparatory School. Under no circumstances shall a child who has been adjudicated delinquent by virtue of committing an act that would be a felony if committed by an adult be eligible for placement at Tennessee Preparatory School.

(e) The Tennessee Preparatory School may seek to continue accreditation by the Southern Association of Colleges and Schools.

SECTION \_\_\_. Tennessee Code Annotated, Title 49, is amended by deleting the words "day care" or "day-care", in upper or lower case, wherever they appear, and by substituting instead the words "child care" in the appropriate upper or lower case.

SECTION \_\_\_. Section 7(i) is amended by deleting the letter "b)" and substituting instead the letter "lq)". Section 7 is further amended by appropriately redesignating the subsections following the newly designated subsection lq).

SECTION \_\_\_. Review. The department shall be reviewed pursuant to the requirements set out in the "Tennessee Governmental Entity Review Law" set out in Tennessee Code Annotated, Title 4, Chapter 29, Parts 1 and 2. Further, the department shall respond to requests for information from any other legislative committees including, but not limited to, the Joint Fiscal Review Committee, the General Welfare, Health and Human Resources Committee of the Senate, the Health and Human Resources Committee of the House of Representatives, and the Government Operations Committee of the Senate and House of Representatives, to insure that thorough review and oversight of the department is accomplished.

SECTION \_\_\_. Non-discrimination. No person shall, on the grounds of race, color, national origin, sex, age or ability to pay, be excluded from participation, be denied the benefits of or be otherwise subjected to discrimination under any program or activity operated by the Department of Children's Services. This shall include, but not be limited to, contracts for services, employment or services to consumers.

SECTION \_\_\_. Tennessee Code Annotated, Section 4-29-219(i), is amended by adding a new item thereto, as follows:

( ) Department of Children's Services, created by Section 2 of this act:

SECTION \_\_\_. Tennessee Code Annotated, Section 37-3-108, is amended by deleting the words "youth development" and substituting instead the words "children's services".

SECTION \_\_\_. Tennessee Code Annotated, Section 37-3-111, is amended by deleting the words "youth development" and substitute instead the words "children's services".

SECTION \_\_\_. Tennessee Code Annotated, Section 37-1-128(c), is amended by deleting the subsection in its entirety.

SECTION \_\_\_. Tennessee Code Annotated, Section 37-1-164, is amended by deleting the section in its entirety.

SECTION \_\_\_. Tennessee Code Annotated, Section 49-50-1001(i), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(1)(A) Control the Tennessee Preparatory School, the Tennessee School for the Blind, the Tennessee School of the Deaf and the Alvin C. York Agricultural

Institute; to elect, on the recommendation of the commissioner, the president, superintendents, teachers, officers and other employees for such schools; to fix, on the recommendation of the commissioner, the salaries and terms of office of such officers and employees; and to prescribe curricula and other requirements for diplomas and degrees.

(B) For the purposes of this part, the following definitions apply:

(i) "Commissioner" means Commissioner of Education in any reference to the Tennessee School for the Blind, Tennessee School for the Deaf and the Alvin C. York Agricultural Institute; "commissioner" means Commissioner of Children's Services in any reference to the Tennessee Preparatory School;

(ii) "Department" means Department of Education in any reference to the Tennessee School for the Blind, Tennessee School for the Deaf and the Alvin C. York Agricultural Institute; "department" means Department of Children's Services in any reference to the Tennessee Preparatory School.

SECTION \_\_\_. Tennessee Code Annotated, Section 49-50-1001(3), is amended by deleting the words and punctuation ", title 37, chapter 3,".

SECTION \_\_\_. Tennessee Code Annotated, Title 49, Chapter 50, Part 11, is amended by deleting the words "commissioner of education" wherever they appear and by substituting instead the word "commissioner".

SECTION \_\_\_. Tennessee Code Annotated, Section 49-50-1102, is amended by adding the following language and punctuation as a new appropriately designated subsection:

( ) "Commissioner" means Commissioner of Education in any reference to the Tennessee School for the Blind, Tennessee School for the Deaf and the Alvin C. York Agricultural Institute; "commissioner" means Commissioner of Children's Services in any reference to the Tennessee Preparatory School;

SECTION \_\_\_. (a) There is hereby created a special joint committee of the General Assembly composed of five (5) members of the Senate General Welfare, Health and Human Resources Committee to be appointed by the Speaker of the Senate and five (5) members of the House Health and Human Resources Committee to be appointed by the Speaker of the House.

(b) The committee shall meet monthly to monitor the implementation of this act, with special emphasis on state employees who may have been transferred or otherwise affected by the consolidation of the various departments, board appointments, and whether the department is accurately and adequately accomplishing its goals in meeting the needs of the children and their families in this state.

(c) The committee is authorized to conduct public hearings and invite state employees, professionals and members of the general public to share information and experiences on the manner in which the implementation of this act has impacted the delivery of services to children and their families in this state.

(d) The committee shall report to the Governor and General Assembly annually, or more often if necessary.

(e) The Children Services Department, Finance and Administration and the Fiscal Review Committee shall provide the committee with such financial information as it may require as well as providing the committee with whatever information the committee may from time to time require.

(f) The committee shall regularly perform legislative oversight of the new

Children Services Department created by this act until services for children and their families have improved substantially so that such oversight is no longer needed.

SECTION \_\_\_\_\_. Until adjournment sine die of the General Assembly convened in 1999, the Select Committee on Children and Youth shall continue to perform legislative oversight of services for children and their families as provided in Title 3, Chapter 15, notwithstanding any provision of this act, §3-15-206 or any other law to the contrary. The provisions of this section shall not be construed or implemented in any way to prohibit or restrict appropriate review, inquiry or oversight of the Department of Children's Services by any other standing, special or statutory committee of the General Assembly.

SECTION 184. Any provision of this act, or the application thereof, which is inconsistent with federal law, rule or regulation shall be deemed to be construed as being consistent with federal law, rule or regulation

SECTION 185. If any provision of this act, or the application thereof, to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable

SECTION 186. This act shall take effect as follows, the public welfare requiring it

(a) on July 1, 1996, for the purposes of Sections 76, 85, 92, 95, 99, 106, 107, 144; and

(b) on becoming law for the purposes of all remaining sections, and for rulemaking and other administrative purposes, unless otherwise provided by this act

PASSED: April 25, 1996

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 21st day of May 1996

  
DON SUNDQUIST, GOVERNOR

2006 2006, ch. 756, § 2; (passed May 8, 2006)

1942

PUBLIC ACTS OF 2006

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SECTION 1. Tennessee Code Annotated, Section 49-6-3015, is amended by deleting subsection (b) in its entirety and substituting instead the following language:

(b) Compulsory school attendance is required of all blind children between six (6) and seventeen (17) years of age, both inclusive.

SECTION 2. Tennessee Code Annotated, Section 49-6-3015, is amended in subdivision (e)(2) by deleting the word and figure "sixteen (16)" and replacing them with the word and figure "eighteen (18)".

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 8, 2006

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NISFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 23rd day of May 2006

  
PHIL BREDESEN, GOVERNOR

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CHAPTER NO. 756

SENATE BILL NO. 3918

By Kyle, Crutchfield

Substituted for: House Bill No. 4039

By McMillan, Brown

## PUBLIC ACTS OF 2006

1943

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6, relative to the enrollment of homeless children.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-6-3102(b), is amended by deleting the subsection in its entirety and substituting the following language:

"Except as otherwise provided in this part, Part 32 of this chapter, and the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 1141 et seq., the authority of each and every local school board in the matter of enrollment of pupils within its local school system shall be full and complete and its decision as to the enrollment of any pupil in any such school shall be final."

SECTION 2. Tennessee Code Annotated, Section 49-6-5001, is amended by adding the following language as new subdivision (c)(3):

"No child or youth determined to be homeless shall be denied admission to any school or school facility if said child or youth has not yet been immunized or is unable to produce immunization records due to being homeless. The enrolling school shall comply with any and all federal laws pertaining to the educational rights of homeless children and youth, including the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 1141 et seq.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 8, 2006

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY N. FEE, SPEAKER  
HOUSE OF REPRESENTATIVES



2007 2007, ch. 57, § 1. (Passed June 11, 2007)

Private Chapter No. 57

PRIVATE ACTS, 2007

1

**PRIVATE CHAPTER NO. 57**

**SENATE BILL NO. 2389**

**By Kilby**

**Substituted for: House Bill No. 2408**

**By Ferguson**

AN ACT to amend Chapter 298 of the Private Acts of 1972; and any other acts amendatory thereto, relative to the reading of ordinances before passage by the city council.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Article IV, Section 4.09 of Chapter 298 of the Private Acts of 1972, and any other acts amendatory thereto, is further amended by deleting the same and substituting instead the following language:

The enacting clause of each ordinance shall be: "Be it ordained by the City Council of the City of Kingston". Every proposed ordinance shall be in writing. Each ordinance, before being adopted, shall be read at two (2) separate meetings, which may be regular or special. As used in this section, "read" means the reading of the caption of the ordinance. All ordinances of a penal nature passed shall be published at least once in the official newspaper of the city, and no such ordinance shall be in force until it is published. The council shall, within a two-year period after the adoption of this charter, and every ten (10) years thereafter, arrange for the codification of the ordinances of the city. Copies of this charter, code and current loose-leaf editions of the official code shall be maintained and made available for purchase by the general public at a fee to be established by the council. In addition, each councilman shall be furnished a copy for his use during his term in office.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Kingston. Its approval or non-approval shall be proclaimed by the presiding officer of the City of Kingston and certified to the secretary of state.

SECTION 3. For purposes of approving or rejecting the provisions of this act, it shall be effective upon becoming law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 2.

**PASSED: June 11, 2007**

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\*\*\* This document is current through the 2013 3rd Called Session \*\*\*

\*\*\* Federal case annotations: July 9, 2013 postings on Lexis \*\*\*

\*\*\* State case annotations: July 31, 2013 postings on Lexis \*\*\*

EDUCATION CODE  
TITLE 2. PUBLIC EDUCATION  
SUBTITLE G. SAFE SCHOOLS  
CHAPTER 38. HEALTH AND SAFETY  
SUBCHAPTER A. GENERAL PROVISIONS

GO TO TEXAS CODE ARCHIVE DIRECTORY

Tex. Educ. Code § 38.001 (2013)

§ 38.001. Immunization; Requirements; Exceptions

(a) Each student shall be fully immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, except as provided by Subsection (c).

(b) [2 Versions: As amended by Acts 2007, 80th Leg., ch. 43] Subject to Subsections (b-1) and (c), the executive commissioner of the Health and Human Services Commission may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

(b) [2 Versions: As amended by Acts 2007, 80th Leg., ch. 94] Subject to Subsection (c), the Department of State Health Services may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

(b-1) Each year, the Department of State Health Services shall prepare a list of the immunizations required under this section for admission to public schools and of any additional immunizations the department recommends for school-age children. The department shall prepare the list in English and Spanish and make the list available in a manner that permits a school district to easily post the list on the district's Internet website as required by Section 38.019.

(c) Immunization is not required for a person's admission to any elementary or secondary school if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required poses a significant risk to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief; or

(2) is a member of the armed forces of the United States and is on active duty.

(c-1) An affidavit submitted under Section (c)(1)(B) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

(d) The Department of State Health Services shall provide the required immunization to children in areas where no local provision exists to provide those services.

(e) A person may be provisionally admitted to an elementary or secondary school if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The Department of State Health Services shall adopt rules relating to the provisional admission of persons to an elementary or secondary school.

(f) A person who has not received the immunizations required by this section for reasons of conscience, including because of the person's religious beliefs, may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

**HISTORY:** Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.160, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 43 (H.B. 1098), § 1, effective May 8, 2007; am. Acts 2007, 80th Leg., ch. 94 (H.B. 1059), § 2, effective May 15, 2007.

**NOTES:**

Editor's Notes. --

Acts 2007, 80th Leg., ch. 94 (H.B. 1059), § 1 provides: "This Act may be cited as the Emily Lastinger Act."

2007 amendment,

by ch. 43, in (b), added the reference to (b-1), and substituted "the executive commissioner of the Health and Human Services Commission" for "The Texas Board of Health"; and added (b-1).

2007 amendment,

by ch. 94, in (b), substituted "the Department of State Health Services" for "the Texas Board of Health"; added (b-1); and in (d) and (e), substituted "The Department of State Health Services" for "The Texas Department of Health."

LexisNexis (R) Notes: OPINIONS OF ATTORNEY GENERAL

OPINIONS OF ATTORNEY GENERAL

1. A private school that does not accept state tax funds is not required to accept for enrollment a child who has received an exemption from the immunizations required by the Texas Health and Safety Code. Op. Tex. Att'y Gen. No. GA-0420 (2006).

2. Section 38.001 requires all children, unless they are excepted, to receive certain immunizations before they may be admitted to school, although a child may be provisionally admitted if he or she has begun the required immunizations and continues to do so. Only the Texas Department of Health, and not the Texas Education Agency, may adopt rules relating to provisional admission based upon a child's immunization status. A Department of Health rule may prohibit a child who is newly enrolled in a public school from attending the school during the thirty-day period allowed to produce (1) immunization records; (2) proof that the child is not required to be immunized; or (3) proof that the child may be provisionally admitted under section 38.001(e). Op. Tex. Att'y Gen. No. GA-0178 (2004).

Enacted 1995 Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am.

74th LEGISLATURE—REGULAR SESSION

Ch. 260, § 1

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 30, 1995, by a non-record vote; passed by the Senate on May 16, 1995: Yeas 31, Nays 0.

Approved May 29, 1995.

Effective September 1, 1995.

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CHAPTER 260

S.B. No. 1

AN ACT

relating to the education system, including the operation and administration of schools; making conforming amendments; providing penalties.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. REENACTMENT AND REVISION OF TITLES 1 AND 2, EDUCATION CODE. Titles 1 and 2, Education Code, are reenacted and revised to read as follows:

TITLE 1. GENERAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

Sec. 1.001. **APPLICABILITY.** (a) This code applies to all educational institutions supported in whole or in part by state tax funds unless specifically excluded by this code.

(b) Except as provided by Chapter 10, Subchapter A, Chapter 29, or Subchapter E, Chapter 30, this code does not apply to students, facilities, or programs under the jurisdiction of the Texas Department of Mental Health and Mental Retardation, the Texas Youth Commission, the Texas Department of Human Services, the Texas Department of Criminal Justice, or any juvenile probation agency.

Sec. 1.002. **EQUAL EDUCATIONAL SERVICES OR OPPORTUNITIES.** (a) An educational institution undertaking to provide education, services, or activities to any individual within the jurisdiction or geographical boundaries of the educational institution shall provide equal opportunities to all individuals within its jurisdiction or geographical boundaries pursuant to this code.

(b) An educational institution may not deny services to any individual eligible to participate in a school district's special education program as provided by Section 29.003, but the educational institution shall provide individuals with disabilities special educational services as authorized by law or, where expressly authorized, assist in and contribute toward the provision of appropriate special educational services in cooperation with other educational institutions and other appropriate agencies, institutions, or departments.

Sec. 1.003. **THE FLYING OF THE UNITED STATES AND TEXAS FLAGS.** On all regular school days, every school and other educational institution to which this code applies shall fly the United States and Texas flags.

[Chapters 2 and 3 reserved for expansion]

## Ch. 260, § 1

## 74th LEGISLATURE—REGULAR SESSION

Sec. 37.154. **CONSENT NOT A DEFENSE.** It is not a defense to prosecution of an offense under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

Sec. 37.155. **IMMUNITY FROM PROSECUTION AVAILABLE.** In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution. Any person reporting a specific hazing incident involving a student in an educational institution to the dean of students or other appropriate official of the institution is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the report. Immunity extends to participation in any judicial proceeding resulting from the report. A person reporting in bad faith or with malice is not protected by this section.

Sec. 37.156. **OFFENSES IN ADDITION TO OTHER PENAL PROVISIONS.** This subchapter does not affect or repeal any penal law of this state. This subchapter does not limit or affect the right of an educational institution to enforce its own penalties against hazing.

Sec. 37.157. **REPORTING BY MEDICAL AUTHORITIES.** A doctor or other medical practitioner who treats a student who may have been subjected to hazing activities:

- (1) may report the suspected hazing activities to police or other law enforcement officials; and
- (2) is immune from civil or other liability that might otherwise be imposed or incurred as a result of the report, unless the report is made in bad faith or with malice.

## CHAPTER 38. HEALTH AND SAFETY

Sec. 38.001. **IMMUNIZATION; REQUIREMENTS; EXCEPTIONS.** (a) Each student shall be fully immunized against diphtheria, rubella, mumps, tetanus, and poliomyelitis, except as provided by Subsection (c).

(b) Subject to Subsection (c), the Texas Board of Health may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

(c) Immunization is not required for a person's admission to any elementary or secondary school if the person applying for admission:

- (1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required would be injurious to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the immunization conflicts with the tenets and practice of a recognized church or religious denomination of which the applicant is an adherent or member, except that this exemption does not apply in times of emergency or epidemic declared by the commissioner of public health; or

- (2) is a member of the armed forces of the United States and is on active duty.

(d) The Texas Department of Health shall provide the required immunization to children in areas where no local provision exists to provide those services.

(e) A person may be provisionally admitted to an elementary or secondary school if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The Texas Department of Health shall adopt rules relating to the provisional admission of persons to an elementary or secondary school.

Sec. 38.002. **IMMUNIZATION RECORDS; REPORTING.** (a) Each public school shall keep an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas

and management, health services, human resources, industrial and engineering systems, and natural resources. The recommendations must address providing guidance to a student on sequences of rigorous courses that will prepare the student for continued learning in postsecondary educational, training, or employment settings.

**SECTION 85. LEGISLATIVE BUDGET BOARD STUDY OF ALLOTMENTS AND ADJUSTMENTS UNDER CHAPTER 42, EDUCATION CODE.** (a) The Legislative Budget Board shall study the various allotments and adjustments provided for by Chapter 42, Education Code, as added by this Act, for the purpose of improving the efficient distribution of state funds.

(b) As part of this study, the board shall review the method by which the state funds the school transportation system. The purpose of this review is to improve efficiency and reduce the paperwork burden on school districts. The board shall also audit each school district whose transportation allocation significantly deviates from the average allocation on a student density basis to determine the reasons for that deviation.

(c) The board shall report its findings to the legislature not later than November 1, 1995.

**SECTION 86. EFFECTIVE DATE.** Except as otherwise provided by this Act, this Act takes effect immediately.

**SECTION 87. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed the Senate on March 27, 1995: Yeas 26, Nays 2; May 8, 1995, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 9, 1995, House granted request of the Senate; May 26, 1995, Senate adopted Conference Committee Report: Yeas 30, Nays 1; passed the House, with amendments, on May 7, 1995: Yeas 108, Nays 37, one present not voting; May 9, 1995, House granted request of the Senate for appointment of Conference Committee; May 27, 1995, House adopted Conference Committee Report: Yeas 116, Nays 29, one present not voting.

Approved May 30, 1995.

Effective May 30, 1995, except as provided in § 86.

## CHAPTER 261

### H.B. No. 3189

#### AN ACT

relating to the board of directors of the Edwards Aquifer Authority and the management of the Edwards Aquifer.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Article 1, Chapter 620, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Section 1.09 and by adding Sections 1.091, 1.092, and 1.093 to read as follows:

**Sec. 1.09. BOARD OF DIRECTORS; ELECTIONS; TERMS.** (a) The authority is governed by a board of directors composed of 15 directors elected from the single-member election districts described by Section 1.093 of this article and two directors appointed as provided by Section 1.091 of this article. The elected directors serve staggered four-year terms with as near as possible to one-half of the members' terms expiring December 1 of each even-numbered year.

(b) The board shall order elections of the appropriate number of directors to replace directors holding elected offices whose terms are nearest expiration to be held on the uniform election date in November of each even-numbered year.

2003 Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.160, effective September 1, 2003; am.

78th LEGISLATURE—REGULAR SESSION

Ch. 198, § 1.01(c)

SECTION 2. Article 11.65, Code of Criminal Procedure, as added by this Act, applies to:

(1) any applicant who on or after the effective date of this Act applies for a writ of habeas corpus; and

(2) any applicant whose application for a writ of habeas corpus is pending on the effective date of this Act, regardless of when the application was filed.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

Passed the Senate on May 14, 2003: Yeas 31, Nays 0; passed the House on May 28, 2003: Yeas 144, Nays 0, two present not voting.

Approved June 2, 2003.

Effective June 2, 2003.

## CHAPTER 198

H.B. No. 2292

### AN ACT

relating to the provision of health and human services in this state, including the powers and duties of the Health and Human Services Commission and other state agencies; providing penalties.

*Be it enacted by the Legislature of the State of Texas:*

### ARTICLE 1. ORGANIZATION OF THE HEALTH AND HUMAN SERVICES COMMISSION AND HEALTH AND HUMAN SERVICES AGENCIES

SECTION 1.01. (a) Section 531.001(3), Government Code, is amended to read as follows:

(3) "*Executive commissioner*" [~~"Commissioner"~~] means the executive commissioner of the Health and Human Services Commission [~~health and human services~~].

(b) Section 531.001(4), Government Code, as amended by Chapters 53, 957, and 1420, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(4) "Health and human services agencies" includes the:

- (A) Interagency Council on Early Childhood Intervention;
- (B) Texas Department on Aging;
- (C) Texas Commission on Alcohol and Drug Abuse;
- (D) Texas Commission for the Blind;
- (E) Texas Commission for the Deaf and Hard of Hearing;
- (F) Texas Department of Health;
- (G) Texas Department of Human Services;
- (H) Texas Department of Mental Health and Mental Retardation;
- (I) Texas Rehabilitation Commission;
- (J) Department of Family and Protective [~~and Regulatory~~] Services; [~~and~~]
- (K) Texas Health Care Information Council;
- (L) Department of Aging and Disability Services;
- (M) Department of State Health Services; and
- (N) Department of Assistive and Rehabilitative Services.

(c) Effective on the date the agencies listed in Section 1.01 of this article are abolished as provided by that section, Section 531.001(4), Government Code, as amended by Chapters 53, 957, and 1420, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:



who have previously opted to enroll their children in the child health plan program under Chapter 62, Health and Safety Code, to return those children to the Medicaid program.

**SECTION 2.154. STATE CHILD HEALTH PLAN AMENDMENT.** (a) In this section, "group plan" means the group health benefit plan under the health insurance premium payment reimbursement program established under Section 62.059, Health and Safety Code.

(b) As soon as possible after the effective date of this section, the Health and Human Services Commission shall submit for approval a plan amendment relating to the state child health plan under 42 U.S.C. Section 1397ff, as amended, as necessary to include the employers' share of required premiums for coverage of individuals enrolled in the group plan as expenditures for the purpose of determining the state children's health insurance expenditures, as that term is defined by 42 U.S.C. Section 1397ee(d)(2)(B), as amended, for federal match funding for the child health plan program provided under Chapter 62, Health and Safety Code.

**SECTION 2.155. STATE MEDICAID PLAN AMENDMENT.** (a) In this section, "group plan" means the group health benefit plan under the health insurance premium payment reimbursement program for Medicaid recipients established under Section 32.0422, Human Resources Code.

(b) As soon as possible after the effective date of this section, the Health and Human Services Commission shall submit an amendment to the state Medicaid plan as necessary to allow this state to include the employers' share of required premiums for coverage of individuals enrolled in the group plan as expenditures for the purpose of determining this state's Medicaid program expenditures for federal match funding for the state Medicaid program.

**SECTION 2.156. REPEAL.** (a) The following are repealed:

(1) Sections 62.055(b) and (c), 62.056, 62.057, 142.006(d), (e), and (f), 142.009(i), 142.0176, 242.0872, 252.206(d), and 252.207(b), Health and Safety Code; and

(2) Sections 32.027(b) and (c), Human Resources Code.

(b) An advisory committee established under Section 62.057, Health and Safety Code, is abolished on the effective date of this section.

**SECTION 2.157.** In the event of a conflict between a provision of this Act and another Act passed by the 78th Legislature, Regular Session, 2003, that becomes law, this Act prevails and controls regardless of the relative dates of enactment.

**SECTION 2.158. FEDERAL AUTHORIZATION OR WAIVER.** If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

**SECTION 2.159.** Any funds that are used by the Texas Department of Transportation to implement the transportation services provided in Sections 2.127, 2.128, 2.129, 2.130, 2.131, 2.132, 2.133, and 2.134 of this Act shall be accounted for and budgeted separately from other funds appropriated to the Texas Department of Transportation for any other public transportation program or budget strategy.

**SECTION 2.160.** Section 38.001, Education Code, is amended by amending Subsection (c) and adding Subsections (c-1) and (f) to read as follows:

(c) Immunization is not required for a person's admission to any elementary or secondary school if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required poses a significant risk [would-be injurious] to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience,

## Ch. 198, § 2.160

## 78th LEGISLATURE—REGULAR SESSION

including a religious belief ~~[conflicts with the tenets and practice of a recognized church or religious denomination of which the applicant is an adherent or member, except that this exemption does not apply in times of emergency or epidemic declared by the commissioner of public health]; or~~

(2) is a member of the armed forces of the United States and is on active duty.

~~(c-1) An affidavit submitted under Section (c)(1)(B) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.~~

~~(f) A person who has not received the immunizations required by this section for reasons of conscience, including because of the person's religious beliefs, may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.~~

SECTION 2.161. Section 51.933, Education Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) No form of immunization is required for a person's admission to an institution of higher education if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine within the United States in which it is stated that, in the physician's opinion, the immunization required poses a significant risk ~~[would be injurious]~~ to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief ~~[conflicts with the tenets and practice of a recognized church or religious denomination of which the applicant is an adherent or member]; or~~

(2) is a member of the armed forces of the United States and is on active duty.

~~(d-1) An affidavit submitted under Section (d)(1)(B) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.~~

SECTION 2.162. Section 161.004(d), Health and Safety Code, is amended to read as follows:

(d) A child is exempt from an immunization required by this section if:

(1) ~~[immunization conflicts with the tenets of an organized religion to which]~~ a parent, managing conservator, or guardian states that the immunization is being declined for reasons of conscience, including a religious belief ~~[belongs]; or~~

(2) the immunization is medically contraindicated based on the opinion of ~~[an examination of the child by]~~ a physician licensed by any state in the United States who has examined the child.

SECTION 2.163. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0041 to read as follows:

Sec. 161.0041. IMMUNIZATION EXEMPTION AFFIDAVIT FORM. (a) A person claiming an exemption from a required immunization based on reasons of conscience, including a religious belief, under Section 161.004 of this code, Section 38.001 or 51.933, Education Code, or Section 42.043, Human Resources Code, must complete an affidavit on a form provided by the department stating the reason for the exemption.

(b) The affidavit must be signed by the person claiming the exemption or, if the person is a minor, the person's parent, managing conservator, or guardian, and the affidavit must be notarized.

(c) A person claiming an exemption from a required immunization under this section may only obtain the affidavit form by submitting a written request for the affidavit form to the department.

(d) The department shall develop a blank affidavit form that contains a seal or other security device to prevent reproduction of the form. The affidavit form shall contain a

2007 Acts 2007, 80th Leg., ch. 43 (H.B. 1098), § 1, effective May 8, 2007; am.

80th LEGISLATURE—REGULAR SESSION

**Ch. 43**

Approved May 8, 2007.

Effective May 8, 2007.

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## CHAPTER 41

H.B. No. 978

### AN ACT

relating to publication of the annual financial statement by a school district.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 140.006(d), Local Government Code, is amended to read as follows:

(d) A statement shall be published not later than two months after the date the fiscal year ends, except that a school district's statement shall be published not later than the 150th [120th] day after the date the fiscal year ends and in accordance with the accounting method required by the *Texas Education Agency* [~~Central Education Agency~~].

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 89, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Passed by the House on March 15, 2007: Yeas 146, Nays 0, 2 present, not voting;  
passed by the Senate on April 26, 2007: Yeas 31, Nays 0.

Approved May 8, 2007.

Effective May 8, 2007.

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## CHAPTER 42

H.B. No. 1064

### AN ACT

relating to the term of a food manager certificate.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 120112(b), Health and Safety Code, is amended to read as follows:

(b) This section does not apply to a license issued for a youth camp under Chapter 141 or a food manager certificate issued under Subchapter G, Chapter 438.

SECTION 2. This Act takes effect September 1, 2007.

Passed by the House on March 22, 2007: Yeas 146, Nays 0, 1 present, not voting;  
passed by the Senate on April 26, 2007: Yeas 31, Nays 0.

Approved May 8, 2007.

Effective September 1, 2007.

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## CHAPTER 43

H.B. No. 1098

### AN ACT

relating to immunization against human papillomavirus.

*Be it enacted by the Legislature of the State of Texas:*

## Ch. 43, § 1

## 80th LEGISLATURE—REGULAR SESSION

SECTION 1. Section 38.001, Education Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Subject to Subsections (b-1) and ~~[Subsection]~~ (c), the executive commissioner of the Health and Human Services Commission ~~[Texas Board of Health]~~ may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

~~(b-1) Immunization against human papillomavirus is not required for a person's admission to any elementary or secondary school; however, by using existing resources, the Health and Human Services Commission shall provide educational material about the human papillomavirus vaccine that is unbiased, medically and scientifically accurate, and peer reviewed, available to parents or legal guardians at the appropriate time in the immunization schedule by the appropriate school. This subsection preempts any contrary executive order issued by the governor. This subsection expires January 11, 2011.~~

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Passed by the House on March 14, 2007: Yeas 118, Nays 23, 1 present not voting; the House concurred in Senate amendments to H.B. No. 1098 on April 25, 2007: Yeas 135, Nays 2, 1 present not voting; passed by the Senate, with amendments, on April 23, 2007: Yeas 30, Nays 1.

Filed without signature May 8, 2007.

Effective May 8, 2007.

## CHAPTER 44

## S.B. No. 271

## AN ACT

relating to the qualifications to serve as an associate judge in certain family law proceedings.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 201.002, Family Code, is amended to read as follows:

Sec. 201.002. QUALIFICATIONS. (a) *Except as provided by Subsection (b), to (f) be eligible for appointment as an associate judge, a person must meet the requirements and qualifications to serve as a judge of the court or courts for which the associate judge is appointed.*

*(b) To be eligible for appointment as an associate judge under Subchapter B or C, a person must meet the requirements and qualifications established under those subchapters.*

SECTION 2. Section 201.102, Family Code, is amended to read as follows:

Sec. 201.102. APPLICATION OF LAW GOVERNING ASSOCIATE JUDGES. ~~[(a)]~~ Subchapter A applies to an associate judge appointed under this subchapter, except that, to the extent of any conflict between this subchapter and Subchapter A, this subchapter prevails.

~~[(b) An associate judge appointed under this subchapter may reside anywhere within the administrative judicial region in which the court to which the associate judge is appointed is located. An associate judge appointed to serve in two or more administrative judicial regions may reside anywhere within the regions.]~~

SECTION 3. Subchapter B, Chapter 201, Family Code, is amended by adding Section 201.1021 to read as follows:

Sec. 201.1021. QUALIFICATIONS. (a) *To be eligible for appointment under this subchapter, a person must be:*

2007 Acts 2007, 80th Leg., ch. 94 (H.B. 1059), § 2, effective May 15, 2007.

80th LEGISLATURE—REGULAR SESSION

Ch. 94, § 3

Approved May 15, 2007.

Effective September 1, 2007.

## CHAPTER 94

H.B. No. 1059

### AN ACT

relating to an immunization awareness program in certain school districts.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. This Act may be cited as the Emily Lastinger Act.

SECTION 2. Section 38.001, Education Code, is amended by amending Subsections (b), (d), and (e) and adding Subsection (b-1) to read as follows:

(b) Subject to Subsection (c), the Department of State [Texas-Board-of] Health Services may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

(b-1) Each year, the Department of State Health Services shall prepare a list of the immunizations required under this section for admission to public schools and of any additional immunizations the department recommends for school-age children. The department shall prepare the list in English and Spanish and make the list available in a manner that permits a school district to easily post the list on the district's Internet website as required by Section 38.019.

(d) The [Texas] Department of State Health Services shall provide the required immunization to children in areas where no local provision exists to provide those services.

(e) A person may be provisionally admitted to an elementary or secondary school if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The [Texas] Department of State Health Services shall adopt rules relating to the provisional admission of persons to an elementary or secondary school.

SECTION 3. Subchapter A, Chapter 38, Education Code, is amended by adding Section 38.019 to read as follows:

*Sec. 38.019. IMMUNIZATION AWARENESS PROGRAM.* (a) A school district that maintains an Internet website shall post prominently on the website:

(1) a list, in English and Spanish, of:

(A) the immunizations required for admission to public school by rules of the Department of State Health Services adopted under Section 38.001;

(B) any immunizations or vaccines recommended for public school students by the Department of State Health Services; and

(C) health clinics in the district that offer the influenza vaccine, to the extent those clinics are known to the district; and

(2) a link to the Department of State Health Services Internet website where a person may obtain information relating to the procedures for claiming an exemption from the immunization requirements of Section 38.001.

(a-1) The link to the Department of State Health Services Internet website provided under Subsection (a)(2) must be presented in the same manner as the information provided under Subsection (a)(1).

(b) The list of recommended immunizations or vaccines under Subsection (a)(2) must include the influenza vaccine, unless the Department of State Health Services requires the influenza vaccine for admission to public school.

**Ch. 94, § 4****80th LEGISLATURE—REGULAR SESSION**

SECTION 4. Section 38.019, Education Code, as added by this Act, applies beginning with the 2007–2008 school year.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Passed by the House on April 12, 2007: Yeas 143, Nays 1, 2 present, not voting; passed by the Senate on May 3, 2007: Yeas 31, Nays 0.

Approved May 15, 2007.

Effective May 15, 2007.

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**CHAPTER 96****H.B. No. 1237****AN ACT**

relating to the confidentiality of certain information of a person licensed to practice law held by the State Bar of Texas.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.1176 to read as follows:

*Sec. 552.1176. CONFIDENTIALITY OF CERTAIN INFORMATION MAINTAINED BY STATE BAR.* (a) *Information that relates to the home address, home telephone number, electronic mail address, social security number, or date of birth of a person licensed to practice law in this state that is maintained under Chapter 81 is confidential and may not be disclosed to the public under this chapter if the person to whom the information relates:*

*(1) chooses to restrict public access to the information; and*

*(2) notifies the State Bar of Texas of the person's choice, in writing or electronically, on a form provided by the state bar.*

*(b) A choice made under Subsection (a) remains valid until rescinded in writing or electronically by the person.*

*(c) All documents filed with a county clerk and all documents filed with a district clerk are exempt from this section.*

SECTION 2. This Act takes effect September 1, 2007.

Passed by the House on March 22, 2007: Yeas 146, Nays 0, 1 present, not voting; passed by the Senate on May 3, 2007: Yeas 31, Nays 0.

Approved May 15, 2007.

Effective September 1, 2007.

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**CHAPTER 96****H.B. No. 1295****AN ACT**

relating to filing fees for certain actions filed in a court with probate jurisdiction.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 118.051, Local Government Code, is amended to read as follows:

*Sec. 118.051. CLERICAL DUTIES.* *Except as provided by Section 118.067, the [The] fees listed in this subchapter for county civil court dockets under Section 118.052(1) and*

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UTAH CODE ANNOTATED

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\*\*\* Statutes current through the 2013 2nd Special Session \*\*\*

\*\*\* Annotations current through September 20, 2013 \*\*\*

TITLE 53A. STATE SYSTEM OF PUBLIC EDUCATION  
CHAPTER 11. STUDENTS IN PUBLIC SCHOOLS  
PART 3. IMMUNIZATION OF STUDENTS

[Go to the Utah Code Archive Directory](#)

Utah Code Ann. § 53A-11-302 (2013)

§ 53A-11-302. Immunizations required -- Exceptions -- Grounds for exemption  
from required immunizations

(1) A student may not enter school without a certificate of immunization, except  
as provided in this section.

(2) Except as provided in Section 53A-1-1001, a student who at the time of  
school enrollment has not been completely immunized against each specified  
disease may attend school under a conditional enrollment if the student has  
received one dose of each specified vaccine prior to enrollment.

(3) A student is exempt from receiving the required immunizations if there is  
presented to the appropriate official of the school one or more of the following:

(a) a certificate from a licensed physician stating that due to the physical  
condition of the student one or more specified immunizations would endanger the  
student's life or health;

(b) A completed form obtained at the local health department where the student resides, providing:

(i) the information required under Subsection 53A-11-302.5(1); and

(ii) a statement that the person has a personal belief opposed to immunizations, which is signed by one of the individuals listed in Subsection 53A-11-302(3)(c) and witnessed by the local health officer or his designee; or

(c) a statement that the person is a bona fide member of a specified, recognized religious organization whose teachings are contrary to immunizations, signed by one of the following persons:

(i) one of the student's parents;

(ii) the student's guardian;

(iii) a legal age brother or sister of a student who has no parent or guardian;  
or

(iv) the student, if of legal age.

**HISTORY:** C. 1953, 53A-11-302, enacted by L. 1988, ch. 2, § 155; 1992, ch. 129, § 1; 2009, ch. 277, § 3; 2010, ch. 395, § 6.

**NOTES:** AMENDMENT NOTES. --The 2009 amendment, effective May 12, 2009, added "Except as provided in Subsection 53A-11-1402(4)" in (2).

The 2010 amendment, effective May 11, 2010, substituted "Section 53A-1-1001" for "Subsection 53A-11-1402(4)" in (2).

**CROSS-REFERENCES.** --Period of minority, § 15-2-1.



1992 ; 1992, ch. 129, § 1; (effective July 1, 1992)

## Laws of Utah - 1992

## Ch. 129

## CHAPTER 129

## H. B. No. 9

Passed February 24, 1992

Approved March 13, 1992

Effective July 1, 1992

## IMMUNIZATION AMENDMENTS

By Vernon R. Borgeson

Paula F. Julander

Walt Bain

Daniel H. Tuttle

Frank R. Pignatelli

Grant D. Protzman

James F. Yardley

Bob Anderson

Gale E. Voigt

Kurt E. Oscarson

R. Haze Hunter

Jordan Tanner

Fred R. Hunsaker

Don Q. Price

Max W. Young

Darrell L. Jorgensen

R. Mont Evans

Jeanne R. Milner

Kelly C. Atkinson

Afton B. Bradshaw

Gene Davis

Patricia B. Larson

Blaze D. Wharton

David M. Jones

Nancy S. Lyon

Ann T. Smedley

Irby N. Arrington

Beverly Ann Evans

Jerrold S. Jensen

Norm Nielsen

Janet Rose

AN ACT RELATING TO HEALTH; AMENDING CERTAIN PROVISIONS EXCEPTING STUDENTS FROM REQUIRED IMMUNIZATIONS; AND PROVIDING AN EFFECTIVE DATE.

THIS ACT AFFECTS SECTIONS OF UTAH CODE ANNOTATED 1963 AS FOLLOWS:

## AMENDS:

53A-11-302, AS ENACTED BY CHAPTER 2, LAWS OF UTAH 1988

## ENACTS:

53A-11-302.5, UTAH CODE ANNOTATED 1963

*Be it enacted by the Legislature of the state of Utah:*

## Section 1. Section Amended.

Section 53A-11-302, Utah Code Annotated 1963, as enacted by Chapter 2, Laws of Utah 1988, is amended to read:

**53A-11-302. Immunizations required — Exceptions — Grounds for exemption from required immunizations.**

(1) A student may not enter school without a certificate of immunization [under a conditional enrollment if the student moves to Utah or transfers within the state within 30 days prior to entry into a

school, but may not continue to attend unless a certificate of immunization is presented within 30 days after entry], except as provided in this section.

(2) A student who[;] at the time of school enrollment[;] has not been completely immunized against each specified disease may attend school under a conditional enrollment [provided] if the student has received one dose of each specified vaccine prior to enrollment.

(3) A student is exempt from receiving the required immunizations if there is presented to the appropriate official of the school one or more of the following:

(a) a certificate from a licensed physician stating that due to the physical condition of the student [is such that] one or more specified immunizations would endanger the student's life or health;

(b) A completed form obtained at the local health department where the student resides, providing:

(i) the information required under Subsection 53A-11-302.5(1); and

(ii) a statement that the person has a personal belief opposed to immunizations, which is signed by one of the individuals listed in Subsection 53A-11-302(3)(c) and witnessed by the local health officer or his designee; or

(b)(c) a statement [signed by one of the following persons] that [the individual has a personal belief opposed to immunizations; or that] the person is a bona fide member of a specified, recognized religious organization whose teachings are contrary to immunizations, signed by one of the following persons:

(i) one of the student's parents;

(ii) the student's guardian;

(iii) a legal age brother or sister of a student who has no parent or guardian; or

(iv) the student, if of legal age.

## Section 2. Section Enacted.

Section 53A-11-302.5, Utah Code Annotated 1963, is enacted to read:

**53A-11-302.5. Personal belief exemption — Immunizations required.**

(1) The Department of Health shall provide to all local health departments a form to be used by persons claiming an exemption from immunization requirements based on a personal belief opposed to immunization. The form shall include a statement printed on the form and drafted by the Department of Health stating the department's position regarding the benefits of immunization. The form shall require, at a minimum:

(a) a statement claiming exemption from immunizations required under Section 53A-11-302, signed by a person listed under Subsection 53A-11-302(3)(c);

(b) the name and address of the person who signs the form;

**Ch. 129****Laws of Utah - 1992**

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(c) the name of the student exempted from immunizations; and

(d) the school at which the student is enrolling.

(2) (a) The Department of Health shall provide these forms to the local health departments.

(b) Local health departments shall make the forms available to the public upon request.

(3) (a) A student enrolling in a school and who claims exemption from immunizations based on a personal belief shall complete the form described in Subsection (1) and provide it to the school officials at the school in which the student is enrolling.

(b) Students who prior to July 1, 1992, claimed an exemption from immunizations based on personal beliefs shall prior to December 1, 1992, complete the form described in Subsection (1) and provide it to the appropriate official of the school the student attends.

**Section 3. Effective Date.**

This act takes effect on July 1, 1992.

2009 2009, ch. 277, § 3; (Effective May 12, 2009)

## General Session - 2009

## Ch. 277

## CHAPTER 277

## H. B. 194

Passed March 10, 2009

Approved March 25, 2009

Effective May 12, 2009

EDUCATION POLICIES  
FOR MILITARY CHILDREN

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Margaret Dayton

## LONG TITLE

## General Description:

This bill enacts certain education policies related to military children.

## Highlighted Provisions:

This bill:

- provides definitions;
- allows for certain exceptions when military children transfer schools, including:
  - \* the use of official and unofficial education records;
  - \* time periods for producing official records;
  - \* age of school enrollment;
  - \* immunizations;
  - \* provisions related to parental consent; and
  - \* graduation provisions; and
- makes technical changes.

## Monies Appropriated in this Bill:

None

## Other Special Clauses:

None

## Utah Code Sections Affected:

## AMENDS:

53A-1-611, as last amended by Laws of Utah 2008, Second Special Session, Chapter 6

53A-3-402, as last amended by Laws of Utah 2007, Chapter 92

53A-11-302, as last amended by Laws of Utah 1992, Chapter 129

53A-11-504, as last amended by Laws of Utah 2007, Chapter 164

## ENACTS:

53A-11-1401, Utah Code Annotated 1953

53A-11-1402, Utah Code Annotated 1953

53A-11-1403, Utah Code Annotated 1953

53A-11-1404, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1.** Section 53A-1-611 is amended to read:

**53A-1-611. Standards and assessment processes to measure student performance -- Basic skills competency test.**

(1) The Legislature recognizes the need for the State Board of Education to develop and implement standards and assessment processes to ensure that student progress is measured and that school boards and school personnel are accountable.

(2) (a) In addition to its responsibilities under Sections 53A-1-603 through 53A-1-605, the State Board of Education, through the state superintendent of public instruction, shall design a basic skills competency test to be administered in the tenth grade.

(b) Except as provided in Subsection (5) and Section 53A-11-1404, a student must pass the basic skills competency test, in addition to the established requirements of the state and local board of education of the district in which the student attends school, in order to receive a basic high school diploma of graduation.

(c) The state board shall include in the test, at a minimum, components on English language arts and reading and mathematics.

(d) Except as provided in Subsection (5) and Section 53A-11-1404, a student who fails to pass all components of the test may not receive a basic high school diploma but may receive a certificate of completion or alternative completion diploma under rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) The state board shall make rules:

(i) to allow students who initially fail the test to retake all or part of the test; and

(ii) that take into account and are consistent with federal law relating to students with disabilities in the administration of the test.

(3) The state board shall implement the tenth grade basic skills competency test, no later than the beginning of the 2003-04 school year.

(4) The requirements of this section are to be complementary to the other achievement testing provisions of this part.

(5) A student enrolled in a school district or charter school that is exempt from administering the tenth grade basic skills competency test is subject to high school graduation standards adopted by the State Board of Education pursuant to Section 53A-1-603.

**Section 2.** Section 53A-3-402 is amended to read:

**53A-3-402. Powers and duties generally.**

(1) Each local school board shall:

(a) implement the core curriculum utilizing instructional materials that best correlate to the core curriculum and graduation requirements;

(b) administer tests, required by the State Board of Education, which measure the progress of each student, and coordinate with the state superintendent and State Board of Education to assess results and create plans to improve the student's progress which shall be submitted to the State Office of Education for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and

(i) receive suggestions from parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade six, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(e) The board shall require the school community council of each elementary, middle, and junior high school within the district to develop and submit annually to the committee a child access routing plan.

(18) (a) Each school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in its public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The board shall implement its plan by July 1, 2000.

(c) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

(iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan; and

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a).

(d) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(e) Each local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and

local law enforcement and public safety representatives.

(19) (a) Each local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require inservice training on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The State Board of Education, through the state superintendent of public instruction, shall provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).

(20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a board shall:

(i) hold a public hearing, as defined in Section 10-9a-103; and

(ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) date, time, and location of the public hearing; and

(ii) at least ten days prior to the public hearing, be:

(A) published in a newspaper of general circulation in the area; and

(B) posted in at least three public locations within the municipality or on the district's official website.

**Section 3. Section 53A-11-302 is amended to read:**

**53A-11-302. Immunizations required -- Exceptions -- Grounds for exemption from required immunizations.**

(1) A student may not enter school without a certificate of immunization, except as provided in this section.

(2) [A] Except as provided in Subsection 53A-11-1402(4), a student who at the time of school enrollment has not been completely immunized against each specified disease may attend school under a conditional enrollment if the student has received one dose of each specified vaccine prior to enrollment.

(3) A student is exempt from receiving the required immunizations if there is presented to the appropriate official of the school one or more of the following:

(a) a certificate from a licensed physician stating that due to the physical condition of the student one or more specified immunizations would endanger the student's life or health;

(b) A completed form obtained at the local health department where the student resides, providing:

(i) the information required under Subsection 53A-11-302.5(1); and

(ii) a statement that the person has a personal belief opposed to immunizations, which is signed by one of the individuals listed in Subsection 53A-11-302(8)(c) and witnessed by the local health officer or his designee; or

(c) a statement that the person is a bona fide member of a specified, recognized religious organization whose teachings are contrary to immunizations, signed by one of the following persons:

(i) one of the student's parents;

(ii) the student's guardian;

(iii) a legal age brother or sister of a student who has no parent or guardian; or

(iv) the student, if of legal age.

**Section 4. Section 53A-11-504 is amended to read:**

**53A-11-504. Requirement of school record for transfer of student -- Procedures.**

(1) [Within 14 days after enrolling a transfer student,--a] Except as provided in Subsection 53A-11-1402(2)(a), a school shall request[, directly from the student's previous school,] a certified copy of [his] a transfer student's record, directly from the transfer student's previous school, within 14 days after enrolling the transfer student.

(2)(a) [Any] Except as provided in Subsection (2)(b) and Subsection 53A-11-1402(2)(b), a school requested to forward a certified copy of a transferring student's record to the new school shall comply within 30 school days of the request [unless].

(b) If the record has been flagged pursuant to Section 53A-11-502, [in which case the copy] a school may not [be forwarded] forward the record to

the new school and the requested school shall notify the division of the request.

**Section 5. Section 53A-11-1401 is enacted to read:**

**Part 14. Education Policies for Military Children**

**53A-11-1401. Definitions.**

As used in this part:

(1) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 16 U.S.C. Sections 1209 and 1211.

(2) "Deployment" means the period one month prior to a service member's departure from the service member's home station on military orders through six months after return to the service member's home station.

(3) "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through grade 12 public educational institutions.

(4) "Military child" means a child enrolled in kindergarten through grade 12 who is legally residing in the household of an active duty service member or whose parent or legal guardian is an active duty service member.

(5) "Transitioning" means the time period during which a military child is in the process of transferring from one school to another.

**Section 6. Section 53A-11-1402 is enacted to read:**

**53A-11-1402. Educational records and enrollment -- Military children.**

(1)(a) If the parent or legal guardian of a military child requests an official education record and the school is unable to release the official education record, the school shall provide the parent or guardian of the military child with an unofficial education record.

(b) If a school requires an official education record in order to enroll a student, the school shall enroll and appropriately place a military child based on information in an unofficial record pending validation by an official record.

(2) (a) Notwithstanding Subsection 53A-11-504(1), a school that enrolls a military child shall request a certified copy of a military child's official education record, directly from the military child's previous school, simultaneous with enrolling the military child.

(b) Notwithstanding Subsection 53A-11-504(2)(a), if a school receives a request to forward a certified copy of a military child's official education record, the school shall comply within ten days of the request.

(3) Notwithstanding Subsection 53A-3-402(6), a local school board shall enroll a military child who is not five years of age before September 2 of the year

**CHAPTER 395****H. B. 388**

Passed March 11, 2010

Approved March 30, 2010

Effective May 11, 2010

**INTERSTATE COMPACT ON  
EDUCATIONAL OPPORTUNITY FOR  
MILITARY CHILDREN**

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: Margaret Dayton

**LONG TITLE****General Description:**

This bill enacts the Interstate Compact on Educational Opportunity for Military Children.

**Highlighted Provisions:**

This bill:

- enacts the Interstate Compact on Educational Opportunity for Military Children, which includes provisions for transferring military children relating to:
  - defining terms;
  - applicability of the compact;
  - transfer of educational records and enrollment;
  - placement and attendance;
  - eligibility for enrollment and extracurricular participation;
  - graduation; and
  - other administrative and legal parameters;
- establishes the State Council on Military Children;
- provides for the appointment of the state's representative on the Interstate Commission on Educational Opportunity for Military Children; and
- makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53A-1-611, as last amended by Laws of Utah 2009, Chapter 277

53A-3-402, as last amended by Laws of Utah 2009, Chapters 277 and 388

53A-11-302, as last amended by Laws of Utah 2009, Chapter 277

53A-11-504, as last amended by Laws of Utah 2009, Chapter 277

**ENACTS:**

53A-1-1001, Utah Code Annotated 1953

53A-1-1002, Utah Code Annotated 1953

53A-1-1003, Utah Code Annotated 1953

**REPEALS:**

53A-11-1401, as enacted by Laws of Utah 2009, Chapter 277

53A-11-1402, as enacted by Laws of Utah 2009, Chapter 277

53A-11-1403, as enacted by Laws of Utah 2009, Chapter 277

53A-11-1404, as enacted by Laws of Utah 2009, Chapter 277

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53A-1-611 is amended to read:**

**53A-1-611. Standards and assessment processes to measure student performance -- Basic skills competency test.**

(1) The Legislature recognizes the need for the State Board of Education to develop and implement standards and assessment processes to ensure that student progress is measured and that school boards and school personnel are accountable.

(2) (a) In addition to its responsibilities under Sections 53A-1-603 through 53A-1-605, the State Board of Education, through the state superintendent of public instruction, shall design a basic skills competency test to be administered in the tenth grade.

(b) Except as provided in Subsection (5) and Section [53A-11-1404] 53A-1-1001, a student must pass the basic skills competency test, in addition to the established requirements of the state and local board of education of the district in which the student attends school, in order to receive a basic high school diploma of graduation.

(c) The state board shall include in the test, at a minimum, components on English language arts and reading and mathematics.

(d) Except as provided in Subsection (5) and Section [53A-11-1404] 53A-1-1001, a student who fails to pass all components of the test may not receive a basic high school diploma but may receive a certificate of completion or alternative completion diploma under rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) The state board shall make rules:

(i) to allow students who initially fail the test to retake all or part of the test; and

(ii) that take into account and are consistent with federal law relating to students with disabilities in the administration of the test.

(3) The state board shall implement the tenth grade basic skills competency test, no later than the beginning of the 2003-04 school year.

(4) The requirements of this section are to be complementary to the other achievement testing provisions of this part.

(5) A student enrolled in a school district or charter school that is exempt from administering the tenth grade basic skills competency test is subject to high school graduation standards adopted by the State Board of Education pursuant to Section 53A-1-603.

(c) The board shall require the school community council of each elementary, middle, and junior high school within the district to develop and submit annually to the committee a child access routing plan.

(18) (a) Each school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in its public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The board shall implement its plan by July 1, 2009.

(c) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

(iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan; and

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a).

(d) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(e) Each local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) Each local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require inservice training on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The State Board of Education, through the state superintendent of public instruction, shall provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).

(20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a board shall:

(i) hold a public hearing, as defined in Section 10-9a-103; and

(ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) date, time, and location of the public hearing; and

(ii) at least 10 days prior to the public hearing, be:

(A) published:

(i) in a newspaper of general circulation in the area; and

(ii) as required in Section 45-1-101; and

(B) posted in at least three public locations within the municipality or on the district's official website.

**Section 6. Section 53A-11-302 is amended to read:**

**53A-11-302. Immunizations required --**

**Exceptions -- Grounds for exemption from required immunizations.**

(1) A student may not enter school without a certificate of immunization, except as provided in this section.

(2) Except as provided in [Subsection 53A-11-1402(4)] Section 53A-1-1001, a student who at the time of school enrollment has not been completely immunized against each specified disease may attend school under a conditional enrollment if the student has received one dose of each specified vaccine prior to enrollment.

(3) A student is exempt from receiving the required immunizations if there is presented to the appropriate official of the school one or more of the following:

(a) a certificate from a licensed physician stating that due to the physical condition of the student one or more specified immunizations would endanger the student's life or health;

(b) A completed form obtained at the local health department where the student resides, providing:

(i) the information required under Subsection 53A-11-302.5(1); and

(ii) a statement that the person has a personal belief opposed to immunizations, which is signed by one of the individuals listed in Subsection 53A-11-302(3)(c) and witnessed by the local health officer or his designee; or

(c) a statement that the person is a bona fide member of a specified, recognized religious organization whose teachings are contrary to immunizations, signed by one of the following persons:

(i) one of the student's parents;

(ii) the student's guardian;

(iii) a legal age brother or sister of a student who has no parent or guardian; or

(iv) the student, if of legal age.

**Section 7. Section 53A-11-504 is amended to read:**

**53A-11-504. Requirement of school record for transfer of student -- Procedures.**

(1) Except as provided in [Subsection 53A-11-1402(2)(a)] Section 53A-1-1001, a school shall request a certified copy of a transfer student's record, directly from the transfer student's previous school, within 14 days after enrolling the transfer student.

(2) (a) Except as provided in Subsection (2)(b) and [Subsection ---53A-11-1402(2)(b)] Section 53A-1-1001, a school requested to forward a certified copy of a transferring student's record to the new school shall comply within 30 school days of the request.

(b) If the record has been flagged pursuant to Section 53A-11-502, a school may not forward the record to the new school and the requested school shall notify the division of the request.

**Section 8. Repealer.**

This bill repeals:

**Section 53A-11-1401, Definitions.**

**Section 53A-11-1402, Educational records and enrollment -- Military children.**

**Section 53A-11-1403, Eligibility -- Military children.**

**Section 53A-11-1404, Graduation requirements -- Military children.**



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\*\*\* Statutes current through the 2013 Session \*\*\*

\*\*\* Annotations current through December 6, 2013 \*\*\*

TITLE EIGHTEEN. HEALTH  
PART 2. PUBLIC HEALTH REGULATIONS  
CHAPTER 21. COMMUNICABLE DISEASES  
SUBCHAPTER 4. IMMUNIZATION

[Go to the Vermont Code Archive Directory](#)

18 V.S.A. § 1122 (2013)

§ 1122. Exemptions

(a) Notwithstanding subsections 1121(a) and (b) of this title, a person may remain in school or in the child care facility without a required immunization:

(1) If the person or, in the case of a minor, the person's parent or guardian presents a form created by the department and signed by a licensed health care practitioner authorized to prescribe vaccines or a health clinic stating that the person is in the process of being immunized. The person may continue to attend school or the child care facility for up to six months while the immunization process is being accomplished;

(2) If a health care practitioner, licensed to practice in Vermont and authorized to prescribe vaccines, certifies in writing that a specific immunization is or may be detrimental to the person's health or is not appropriate, provided that when a particular vaccine is no longer contraindicated, the person shall be required to receive the vaccine; or

(3) If the person or, in the case of a minor, the person's parent or guardian annually provides a signed statement to the school or child care facility on a form created by the Vermont department of health that the person, parent, or guardian:

(A) holds religious beliefs or philosophical convictions opposed to immunization;

(B) has reviewed and understands evidence-based educational material provided by the department of health regarding immunizations, including information about the risks of adverse reactions to immunization;

(C) understands that failure to complete the required vaccination schedule increases risk to the person and others of contracting or carrying a vaccine-preventable infectious disease; and

(D) understands that there are persons with special health needs attending schools and child care facilities who are unable to be vaccinated or who are at heightened risk of contracting a vaccine-preventable communicable disease and for whom such a disease could be life-threatening.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

(c) A form signed pursuant to subdivision (a)(3) of this section and the fact that such a form was signed shall not be:

(1) construed to create or deny civil liability for any person; or

(2) admissible as evidence in any civil proceeding.

**HISTORY:** Added 1979, No. 40; amended 1981, No. 18, § 3; 2007, No. 204 (Adj. Sess.), § 7; 2011, No. 157 (Adj. Sess.), § 2.

#### **NOTES: HISTORY**

AMENDMENTS--2011 (ADJ. SESS.). Subsection (a): Amended generally.  
Subsection (c): Added.

--2007 (ADJ. SESS.). Amended section generally.

--1981. Subsection (a): Substituted "person" for "child" in the introductory clause, "person, or in the case of a minor the person's" for "child's" preceding "parent" and "person" for "child" in subdiv. (1), "person's" for "child's" preceding "health"

in subdiv. (2), and "the person, or in the case of a minor the person"s" for "a" preceding "parent or guardian states" and inserted "person," preceding "parent or guardian has religious beliefs" in subdiv. (3).

1979 Added 1979, No. 40; (Approved April 20, 1979)

PUBLIC ACTS, 1979

NO. 40. AN ACT TO ADD 18 V.S.A. CHAPTER 21, SUBCHAPTER 4 RELATING TO IMMUNIZATION OF SCHOOL CHILDREN.

(H.120)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. chapter 21, subchapter 4 is added to read:

Subchapter 4. Immunization

§ 1120. DEFINITIONS

As used in this subchapter, "school" means a public, private or parochial elementary or secondary school.

§ 1121. IMMUNIZATIONS REQUIRED PRIOR TO ATTENDING SCHOOL.

Except as provided under section 114 of this title, no child shall enter as a student in a Vermont school unless the appropriate school official has received a record or certificate of immunization issued by a licensed physician or a health clinic that the child has received required immunizations appropriate to age as specified by the Vermont department of health.

§ 1122. EXEMPTIONS

(a) A child may remain in school without a required immunization:

(1) If the child's parent or guardian presents a written statement from a licensed physician, health clinic or nurse that the child is in the process of being immunized. The child may continue to attend school as long as the immunization process is being accomplished;

(2) If a physician, licensed to practice in Vermont, certifies in writing that a specific immunization is or may be detrimental to the child's health or is not appropriate;

(3) If a parent or guardian states in writing that the parent or guardian has religious beliefs or moral convictions opposed to immunization.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

#### § 1123. IMMUNIZATION RULES AND REGULATIONS

The health department in consultation with the department of education shall establish rules for administering this subchapter. Such rules shall establish which immunizations shall be required and the manner and frequency of their administration.

#### § 1124. ACCESS TO RECORDS

School health personnel and local and state health personnel shall have access to student immunization records, when such access is required in the performance of official duties.

#### § 1125. SCHOOL BOARD POWERS

In addition to the requirements of section 1121 of this title, the school board of any district, with approval of the department of health, may require appropriate immunizations at any grade level.

#### § 1126. NONCOMPLIANCE

The school board of each district shall exclude from school any child not otherwise exempted under this subchapter who fails to comply with its provisions. No child shall be excluded for failure to comply with the provisions of this subchapter unless there has been a notification by the appropriate school authority to the child's parent or guardian of the noncompliance with this subsection, and of

NO. 40

## PUBLIC ACTS, 1979

their rights under section 1122 of this title. In the event of exclusion, school officials shall notify the department of health and contact the parents or guardians in an effort to secure compliance with the requirements of this subchapter so that the child may attend school.

Approved: April 20, 1979

NO. 41. AN ACT TO REPEAL 10 V.S.A. § 1522a RELATING TO THE LITTER LEVY ON ALCOHOLIC BEVERAGE CONTAINERS.

(H.49)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. Repeal

10 V.S.A. § 1522a, relating to the litter levy, is repealed.

Approved: April 20, 1979

1981 amended 1981, No. 18, § 3; (Approved April 14, 1981)

## PUBLIC ACTS, 1981 SESSION

NO. 18. AN ACT TO AMEND 18 V.S.A. §§ 1120, 1121, 1122, 1124 AND 1124  
AND TO REPEAL 18 V.S.A. § 1125 RELATING TO IMMUNIZATION OF SCHOOL  
CHILDREN.

(H.181)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. § 1120 is amended to read:

§ 1120. DEFINITIONS

As used in this subchapter, "school" means a public, private or  
parochial kindergarten, elementary or secondary school.

Sec. 2. 18 V.S.A. § 1121 is amended to read:

§ 1121. IMMUNIZATIONS REQUIRED PRIOR TO ATTENDING SCHOOL

Except as provided under section 114 of this title, no person may  
enroll as a student in a Vermont school, regardless of whether the  
student has been enrolled in the school during a previous school  
year, unless the appropriate school official has received a record or  
certificate of immunization issued by a licensed physician or a  
health clinic that the person has received required immunizations ap-  
propriate to age as specified by the Vermont department of health.

Sec. 3. 18 V.S.A. § 1122 is amended to read:

§ 1122. EXEMPTIONS

(a) A person may remain in school without a required immunization:

(1) If the person, or in the case of a minor the person's parent  
or guardian presents a written statement from a licensed physician,  
health clinic or nurse that the person is in the process of being  
immunized. The person may continue to attend school as long as the  
immunization process is being accomplished;

(2) If a physician, licensed to practice in Vermont, certifies  
in writing that a specific immunization is or may be detrimental to  
the person's health or is not appropriate;

## NO. 18 PUBLIC ACTS, 1981 SESSION

(3) If the person, or in the case of a minor the person's parent or guardian states in writing that the person, parent or guardian has religious beliefs or moral convictions opposed to immunization.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

Sec. 4. 18 V.S.A. § 1124 is amended to read:

### § 1124. ACCESS TO RECORDS

Appropriate health personnel shall have access to student immunization records, when access is required in the performance of official duties related to the immunizations required by this subchapter.

Sec. 5. 18 V.S.A. § 1126 is amended to read:

### § 1126. NONCOMPLIANCE.

The school board of each district shall exclude from school any person not otherwise exempted under this subchapter who fails to comply with its provisions. No person shall be excluded for failure to comply with the provisions of this subchapter unless there has been a notification by the appropriate school authority to the person, or in the case of a minor to the person's parent or guardian of the noncompliance with this subsection, and of their rights under section 1122 of this title. In the event of exclusion, school officials shall notify the department of health and contact the parents or guardians in an effort to secure compliance with the requirements of this subchapter so that the person may attend school.

Sec. 6. REPEAL

18 V.S.A. § 1125 (School board powers) is repealed.

Approved: April 14, 1981



2007 2007, No. 204 (Adj. Sess.), § 7; (Approved June 10, 2008)

VERMONT ADVANCE LEGISLATIVE SERVICE  
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VERMONT ADJOURNED SESSION OF THE 2007-2008 BIENNIUM

ACT 204

SENATE BILL 283

2007 Vt. ALS 204; 2007 Vt Laws 204; 2007 Vt. ACT 204; 2007 Vt. S. 283

BILL TRACKING SUMMARY FOR THIS DOCUMENT

**SYNOPSIS:** AN ACT RELATING TO managed care organizations, the blueprint for health, and immunizations of children prior to attending school and child care facilities, and the immunizationS registry.

**NOTICE:**

[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED <A]

[D> Text within these symbols is deleted <D]

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To view the next section, type .np\* TRANSMIT.

To view a specific section, transmit p\* and the section number. e.g. p\*1  
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It is hereby enacted by the General Assembly of the State of Vermont:

[\*1] Sec. 1. 18 V.S.A. Section 9414(a)(1), (b), and (e) are amended to read:

(a) The commissioner shall have the power and responsibility to ensure that each managed care organization provides quality health care to its members, in accordance with the provisions of this section.

(1) In determining whether a managed care organization meets the requirements of this section, the commissioner shall [D> annually <D] [A> REVIEW AND <A] examine [A> , IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, <A] the organization's administrative policies and procedures, quality management and improvement procedures, utilization management, credentialing practices, members' rights and responsibilities, preventive health services, medical records practices, grievance and appeal procedures, member services, financial incentives or disincentives, disenrollment, provider contracting [A> , <A] and systems and data reporting capacities. The commissioner may establish, by rule, specific criteria to be considered under this section.

(b) [A> (1) <A] A managed care organization shall assure that the health care services provided to members are consistent with prevailing professionally recognized standards of medical practice.

[A> (2) A MANAGED CARE ORGANIZATION SHALL ESTABLISH A CHRONIC CARE PROGRAM AS NEEDED TO IMPLEMENT THE BLUEPRINT FOR HEALTH ESTABLISHED IN CHAPTER 13 OF THIS TITLE. THE PROGRAM SHALL INCLUDE: <A]

[A> (A) APPROPRIATE BENEFIT PLAN DESIGN; <A]

[A> (B) INFORMATIONAL MATERIALS, TRAINING, AND FOLLOW-UP NECESSARY TO SUPPORT MEMBERS AND PROVIDERS; AND <A]

[A> (C) PAYMENT REFORM METHODOLOGIES. <A]

[A> (3) <A] Each managed care organization shall have procedures to assure availability, accessibility and continuity of care, and ongoing procedures for the identification, evaluation, resolution [A> , <A] and follow-up of potential and actual problems in its health care administration and delivery.

(e) The commissioner shall [D> evaluate <D] [A> REVIEW <A] a managed care organization's performance under the requirements of this section at least once every three years and more frequently as the commissioner deems proper. [A> IF UPON REVIEW THE COMMISSIONER DETERMINES THAT THE ORGANIZATION'S PERFORMANCE WITH RESPECT TO ONE OR MORE REQUIREMENTS WARRANTS FURTHER EXAMINATION, THE COMMISSIONER SHALL CONDUCT A COMPREHENSIVE OR TARGETED EXAMINATION OF THE ORGANIZATION'S PERFORMANCE. <A] The commissioner may designate another organization to conduct any evaluation under this subsection. Any such independent designee shall have a confidentiality code acceptable to the commissioner, or shall be subject to the confidentiality code adopted by the commissioner under subdivision (f)(3) of this section. In conducting an evaluation under this subsection, the commissioner or

the commissioner's designee shall employ, retain, or contract with persons with expertise in medical quality assurance.

[\*2] Sec. 2. 8 V.S.A. Section 4088f is added to read:

[A> SECTION 4088F. HEALTH INSURANCE AND THE BLUEPRINT FOR HEALTH <A]

[A> (A) A HEALTH INSURANCE PLAN SHALL BE OFFERED, ISSUED, AND ADMINISTERED CONSISTENT WITH THE BLUEPRINT FOR HEALTH ESTABLISHED IN CHAPTER 13 OF TITLE 18, AS DETERMINED BY THE COMMISSIONER. <A]

[A> (B) AS USED IN THIS SECTION, "HEALTH INSURANCE PLAN" MEANS ANY INDIVIDUAL OR GROUP HEALTH INSURANCE POLICY, ANY HOSPITAL OR MEDICAL SERVICE CORPORATION OR HEALTH MAINTENANCE ORGANIZATION SUBSCRIBER CONTRACT, OR ANY OTHER HEALTH BENEFIT PLAN OFFERED, ISSUED, OR RENEWED FOR ANY PERSON IN THIS STATE BY A HEALTH INSURER, AS DEFINED IN SECTION 9402 OF TITLE 18. THE TERM SHALL INCLUDE THE HEALTH BENEFIT PLAN OFFERED BY THE STATE OF VERMONT TO ITS EMPLOYEES AND ANY HEALTH BENEFIT PLAN OFFERED BY ANY AGENCY OR INSTRUMENTALITY OF THE STATE TO ITS EMPLOYEES. THE TERM SHALL NOT INCLUDE BENEFIT PLANS PROVIDING COVERAGE FOR SPECIFIC DISEASE OR OTHER LIMITED BENEFIT COVERAGE UNLESS SO DIRECTED BY THE COMMISSIONER. <A]

[\*3] Sec. 3. SUPPORT OF BLUEPRINT integrated early implementation PILOT Programs

[A> (A) AS USED IN THIS SECTION, "HEALTH INSURER" MEANS A HEALTH INSURANCE COMPANY DOING BUSINESS IN VERMONT WHOSE INDIVIDUAL SHARE OF THE COMMERCIALY INSURED VERMONT MARKET, AS MEASURED BY COVERED LIVES, COMPRISES AT LEAST FIVE PERCENT OF THE COMMERCIALY INSURED VERMONT MARKET. <A]

[A> (B) THE BLUEPRINT DIRECTOR SHALL ESTABLISH A PILOT DESIGN AND EVALUATION COMMITTEE TO ASSIST WITH DESIGN, IMPLEMENTATION, AND EVALUATION OF THE INTEGRATED EARLY IMPLEMENTATION PILOT PROGRAMS, AS DEFINED IN SEC. 7 OF NO. 71 OF THE ACTS OF 2007. THE COMMITTEE SHALL: <A]

[A> (1) WORK COLLABORATIVELY WITH THE BLUEPRINT DIRECTOR TO ACCOMPLISH THE PROVISIONS IN SUBSECTIONS (C) THROUGH (G) OF THIS SECTION; AND <A]

[A> (2) INCLUDE A REPRESENTATIVE OF EACH OF THE PARTICIPATING HEALTH INSURERS; A PARTICIPATING PROVIDER FROM EACH PILOT COMMUNITY; A REPRESENTATIVE OF THE VERMONT DEPARTMENT OF HEALTH; A REPRESENTATIVE OF THE OFFICE OF VERMONT HEALTH ACCESS; A REPRESENTATIVE OF THE DEPARTMENT OF BANKING, INSURANCE, SECURITIES, AND HEALTH CARE ADMINISTRATION; A NATUROPATHIC PHYSICIAN; A REPRESENTATIVE OF THE BUSINESS COMMUNITY; AND A REPRESENTATIVE OF THE VERMONT MEDICAL SOCIETY. <A]

[A> (C) IMPLEMENTATION OF THE FIRST PILOT PROGRAM SHALL BEGIN NO LATER THAN JULY 1, 2008. IMPLEMENTATION OF THE SECOND PILOT PROGRAM SHALL BEGIN NO LATER THAN OCTOBER 1, 2008. IMPLEMENTATION OF THE THIRD PILOT PROGRAM SHALL BEGIN NO LATER THAN JANUARY 1, 2009. <A]

[A> (D) NO LATER THAN MAY 31, 2008, HEALTH INSURERS AND THE OFFICE OF VERMONT HEALTH ACCESS SHALL COMMIT IN WRITING TO PARTICIPATION IN THE THREE INTEGRATED EARLY IMPLEMENTATION PILOT PROJECTS AS DESCRIBED IN SEC. 7 OF NO. 71 OF THE ACTS OF 2007 AND AS FURTHER SPECIFIED BY THE PROVISIONS OF THIS SECTION. SUCH COMMITMENT SHALL INCLUDE AGREEMENT TO: <A]

[A> (1) PROVIDE FINANCIAL SUPPORT FOR A FIVE-MEMBER COMMUNITY CARE TEAM IN EACH OF THE THREE INTEGRATED EARLY IMPLEMENTATION PILOT PROGRAM COMMUNITIES ESTABLISHED PURSUANT TO SEC. 7(F) OF NO. 71 OF THE ACTS OF 2007. THE DEPARTMENT OF HEALTH, HEALTH INSURERS, AND THE OFFICE OF VERMONT HEALTH ACCESS SHALL EACH CONTRIBUTE EQUAL SHARES OF SUCH FINANCIAL SUPPORT FOR THE COMMUNITY CARE TEAMS, WITH THE EXCEPTION THAT MVP HEALTHCARE SHALL CONTRIBUTE ONE-HALF OF THAT SHARE; <A]

[A> (2) PROVIDE FINANCIAL SUPPORT FOR PAYMENT REFORM FOR PROVIDERS IN PRACTICES THAT ARE PARTICIPATING AS PART OF THE THREE INTEGRATED EARLY IMPLEMENTATION PILOT PROGRAMS AS REFERENCED IN SEC. 7(E) AND (G) OF NO. 71 OF THE ACTS OF 2007; <A]

[A> (3) PROVIDE CLAIMS DATA-SHARING FOR EVALUATION OF THE EFFECTIVENESS OF THESE INTEGRATED PILOT PROGRAMS AS REFERENCED IN SEC. 7(C) AND (E) OF NO. 71 OF THE ACTS OF 2007; AND <A]

[A> (4) ACTIVELY PARTICIPATE IN PROGRAM DESIGN, IMPLEMENTATION, AND EVALUATION ACTIVITIES. <A]

[A> (E) NO LATER THAN MAY 31, 2008, THE BLUEPRINT DIRECTOR SHALL ADOPT DESIGNS FOR THE FINANCIAL SUPPORT MODELS IN SUBDIVISIONS (D)(1) AND (D)(2) OF THIS SECTION AND FOR THE PLAN TO EVALUATE HEALTH CARE PROCESS QUALITY, INCLUDING TARGETS FOR KEY OUTCOMES TO BE ACHIEVED BY THE PILOTS. <A]

[A> (F) BY JANUARY 1, 2010, AS PART OF THE BLUEPRINT ANNUAL REPORT, THE BLUEPRINT DIRECTOR SHALL INCLUDE A REPORT ON INTEGRATED PILOT PROGRAM IMPLEMENTATION AND PRELIMINARY EVALUATION FINDINGS. <A]

[A> (G) NO LATER THAN SIX MONTHS AFTER THE THIRD INTEGRATED PILOT HAS COMPLETED 12 MONTHS OF CLINICAL OPERATIONS, THE BLUEPRINT DIRECTOR AND THE PILOT DESIGN AND EVALUATION COMMITTEE SHALL ASSESS WHETHER THERE IS SUFFICIENT CLINICAL AND FINANCIAL GAIN FROM THESE TYPES OF PROGRAMS TO MOVE FORWARD WITH STATEWIDE IMPLEMENTATION. <A]

[A> (1) THE BLUEPRINT DIRECTOR SHALL PROVIDE A FINAL EVALUATION REPORT TO THE SENATE COMMITTEE ON HEALTH AND WELFARE, THE HOUSE COMMITTEE ON HEALTH CARE, AND THE COMMISSION ON HEALTH CARE REFORM. <A]

[A> (2) IF EVIDENCE SUPPORTS STATEWIDE IMPLEMENTATION, THE FINAL EVALUATION REPORT SHALL INCLUDE RECOMMENDATIONS TO ACHIEVE THIS GOAL. <A]

[A> (H) IF THE COMMISSIONER OF BANKING, INSURANCE, SECURITIES, AND HEALTH CARE ADMINISTRATION DETERMINES THAT A HEALTH INSURER IS NOT PARTICIPATING IN AN ADEQUATE AND APPROPRIATE MANNER, AS DETERMINED BY THE COMMISSIONER, IN THE ACTIVITIES DESCRIBED IN THIS SECTION, THE COMMISSIONER, IN ADDITION TO ANY OTHER REMEDY OR SANCTION PROVIDED FOR BY LAW, MAY ORDER THE HEALTH INSURER TO PARTICIPATE IN SUCH BLUEPRINT INITIATIVES AND TAKE SUCH OTHER ACTIONS AS THE COMMISSIONER DETERMINES NECESSARY TO CARRY OUT THE PURPOSES OF THIS SECTION. <A]

[\*4] Sec. 4. REPEAL

[A> SEC. 3 OF THIS ACT, RELATING TO BLUEPRINT INTEGRATED EARLY IMPLEMENTATION PILOT PROGRAMS, SHALL BE REPEALED ON JULY 1, 2012. <A]

[\*5] Sec. 5. 18 V.S.A. Section 1120 is amended to read:

Section 1120. DEFINITIONS

As used in this subchapter [D> , <D] :

(1) "Child care facility" means a child care facility or family day care home licensed or registered under chapter 35 of Title 33, unless exempted by rule adopted under section 1123 of this title.

(2) [D> "school" <D] "School" means a public or independent prekindergarten, kindergarten, elementary or secondary school, or any postsecondary school as defined in 16 V.S.A. Section 176(b), unless exempted by rule adopted pursuant to section 1123 of this title.

[\*6] Sec. 6. 18 V.S.A. Section 1121 is amended to read:

#### Section 1121. IMMUNIZATIONS REQUIRED PRIOR TO ATTENDING SCHOOL AND CHILD CARE FACILITIES

(a) No person may enroll as a student in a Vermont school, regardless of whether the student has been enrolled in the school during a previous school year, unless the appropriate school official has received a record or certificate of immunization issued by a licensed [D> physician <D] health care practitioner or a health clinic that the person has received required immunizations appropriate to age as specified by the Vermont department of health.

(b) No person may enroll or retain a child in a child care facility, regardless of whether the child has been enrolled in the facility during a previous year, unless the facility has received a record or certificate of immunization issued by a licensed health care practitioner or a health clinic that the child has received required immunizations in the prior 12-month period appropriate to age as specified by the Vermont department of health.

[\*7] Sec. 7. 18 V.S.A. Section 1122 is amended to read:

#### Section 1122. EXEMPTIONS

(a) A person may remain in school or in the child care facility without a required immunization:

(1) If the person, or in the case of a minor the person's parent or guardian presents a written statement from a licensed [D> physician <D] health care practitioner, health clinic, or nurse that the person is in the process of being immunized. The person may continue to attend school or the child care facility as long as the immunization process is being accomplished;

(2) If a [D> physician <D] health care practitioner, licensed to practice in Vermont, certifies in writing that a specific immunization is or may be detrimental to the person's health or is not appropriate;

(3) If the person, or in the case of a minor the person's parent or guardian states in writing that the person, parent, or guardian has religious beliefs or [D> moral <D] philosophical convictions opposed to immunization.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

[\*8] Sec. 8. 18 V.S.A. Section 1123 is amended to read:

#### Section 1123. IMMUNIZATION RULES AND REGULATIONS

The health department shall adopt rules for administering this subchapter. Such rules shall be developed in consultation with the department of education [D> shall establish rules for administering this subchapter <D] with respect to immunization requirements for Vermont schools, and in consultation with the department for children and families with respect to immunization requirements for child care facilities. Such rules shall establish which immunizations shall be required and the manner and frequency of their administration, and may provide for exemptions as authorized by this subchapter.

[\*9] Sec. 9. 18 V.S.A. Section 1124 is amended to read:

#### Section 1124. ACCESS TO RECORDS

Appropriate health personnel, including school nurses, shall have access to [D> student <D] immunization records of anyone enrolled in Vermont schools or child care facilities, when access is required in the performance of official duties related to the immunizations required by this subchapter. Access to student immunization records shall only be provided with the prior written consent of parents and students as required by the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g, and any regulations adopted thereunder.

[\*10] Sec. 10. 18 V.S.A. Section 1126 is amended to read:

#### Section 1126. NONCOMPLIANCE

The school board of each district, or the board of trustees of each independent school, or the chief executive officer of each [D> post-secondary <D] postsecondary school, or the director of each child care facility shall exclude from school or a child care facility any person not otherwise exempted under this subchapter who fails to comply with its provisions. No person shall be excluded for failure to comply with the provisions of this subchapter unless there has been a notification by the appropriate school or child care facility authority to the person, or in the case of a minor to the person's parent or guardian of the noncompliance with this subsection, and of their rights under section 1122 of this title. In the event of exclusion, school officials or the director of the child care

facility shall notify the department of health and contact the parents or guardians in an effort to secure compliance with the requirements of this subchapter so that the person may attend school or the child care facility.

[\*11] Sec. 11. 18 V.S.A. Section 1129 is amended to read:

Section 1129. [D> CHILDHOOD <D] IMMUNIZATION REGISTRY

(a) A health care provider shall report to the department all data regarding [D> required <D] immunizations of [A> ADULTS AND OF <A] children under the age of 18 within seven days of the immunization [A> , PROVIDED THAT REQUIRED REPORTING OF IMMUNIZATIONS OF ADULTS SHALL COMMENCE WITHIN ONE MONTH AFTER THE HEALTH CARE PROVIDER HAS ESTABLISHED AN ELECTRONIC HEALTH RECORDS SYSTEM AND DATA INTERFACE PURSUANT TO THE E-HEALTH STANDARDS DEVELOPED BY THE VERMONT INFORMATION TECHNOLOGY LEADERS. A HEALTH INSURER SHALL REPORT TO THE DEPARTMENT ALL DATA REGARDING IMMUNIZATIONS OF ADULTS AND OF CHILDREN UNDER THE AGE OF 18 AT LEAST QUARTERLY <A] . [D> The <D] [A> ALL <A] data [A> REQUIRED PURSUANT TO THIS SUBSECTION <A] shall be reported in a form required by the department.

(b) The department may use the data to create a registry of [D> childhood <D] immunizations. [A> REGISTRY INFORMATION REGARDING A PARTICULAR ADULT SHALL BE PROVIDED, UPON REQUEST, TO THE ADULT, THE ADULT'S HEALTH CARE PROVIDER, AND THE ADULT'S HEALTH INSURER. A MINOR CHILD'S RECORD ALSO MAY BE PROVIDED, UPON REQUEST, TO SCHOOL NURSES, AND UPON REQUEST AND WITH WRITTEN PARENTAL CONSENT, TO LICENSED DAY CARE PROVIDERS, TO DOCUMENT COMPLIANCE WITH VERMONT IMMUNIZATION LAWS. <A] Registry information regarding a particular child shall be provided, upon request, to the child after the child reaches the age of majority and to the child's parent, guardian [A> , HEALTH INSURER, <A] and health care provider. Registry information shall be kept confidential and privileged and may be shared only in summary, statistical [A> , <A] or other form in which particular individuals are not identified.

[\*12] Sec. 12. EFFECTIVE DATE

[A> THIS ACT SHALL TAKE EFFECT JULY 1, 2008, EXCEPT THAT SEC. 3 AND THIS SECTION SHALL TAKE EFFECT UPON PASSAGE. <A]

**HISTORY:**

Approved by the Governor June 10, 2008





2011 2011, No. 157 (Adj. Sess.), § 2. (Approved May 16, 2012)

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VERMONT 71ST BIENNIAL SESSION

ACT 157

SENATE BILL 199

2011 Vt. ALS 157; 2011 Vt Laws 157; 2011 Vt. ACT 157; 2011 Vt. S. 199

# BILL TRACKING SUMMARY FOR THIS DOCUMENT

**SYNOPSIS:** An act relating to immunization exemptions and the immunization pilot program. (S.199)

## **NOTICE:**

[A> Text within these symbols is added <A]

[D> Text within these symbols is deleted <D]

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To view the next section, type .np\* TRANSMIT.

To view a specific section, transmit p\* and the section number. e.g. p\*1  
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It is hereby enacted by the General Assembly of the State of Vermont:

[\*1] Sec. 1. 18 V.S.A. Section 1121 is amended to read:

Section 1121. IMMUNIZATIONS REQUIRED PRIOR TO ATTENDING SCHOOL  
AND CHILD CARE FACILITIES

\* \* \*

[A> (c) To the extent permitted under the federal Health Insurance Portability and Accountability Act, Pub. L. 104-191, all schools and child care facilities shall make publicly available the aggregated immunization rates of the student body for each required vaccine using a standardized form that shall be created by the department of health. Each school and child care facility shall annually, on or before January 1, submit its standardized form containing the student body's

aggregated immunization rates to the department of health. Notwithstanding section 1120 of this title, for the purposes of this subsection only, the term "child care facility" shall exclude a family day care home licensed or registered under 33 V.S.A. chapter 35. <A]

[\*2] Sec. 2. 18 V.S.A. Section 1122 is amended to read:

## Section 1122. EXEMPTIONS

(a) [D> A <D] [A> Notwithstanding subsections 1121(a) and (b) of this title, a <A] person may remain in school or in the child care facility without a required immunization:

(1) If the person [D> , <D] or [A> , <A] in the case of a minor [A> , <A] the person's parent or guardian presents a [D> written statement, from <D] [A> form created by the department and signed by <A] a licensed health care practitioner [A> authorized to prescribe vaccines or a <A] health clinic [D> , or nurse <D] [A> stating <A] that the person is in the process of being immunized. The person may continue to attend school or the child care facility [D> as long as <D] [A> for up to six months while <A] the immunization process is being accomplished;

(2) If a health care practitioner, licensed to practice in Vermont [A> and authorized to prescribe vaccines <A] , certifies in writing that a specific immunization is or may be detrimental to the person's health or is not appropriate [D> ; <D] [A> , provided that when a particular vaccine is no longer contraindicated, the person shall be required to receive the vaccine; or <A]

(3) If the person [D> , <D] or [A> , <A] in the case of a minor [A> , <A] the person's parent or guardian [D> states in writing <D] [A> annually provides a signed statement to the school or child care facility on a form created by the Vermont department of health <A] that the person, parent, or guardian [A> : <A]

[A> (A) <A] [D> has <D] [A> holds <A] religious beliefs or philosophical convictions opposed to immunization [A> ; <A]

[A> (B) has reviewed and understands evidence-based educational material provided by the department of health regarding immunizations, including information about the risks of adverse reactions to immunization; <A]

[A> (C) understands that failure to complete the required vaccination schedule increases risk to the person and others of contracting or carrying a vaccine-preventable infectious disease; and <A]

[A> (D) understands that there are persons with special health needs attending schools and child care facilities who are unable to be vaccinated or who are at

heightened risk of contracting a vaccine-preventable communicable disease and for whom such a disease could be life-threatening <A> .

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

[A> (c) A form signed pursuant to subdivision (a)(3) of this section and the fact that such a form was signed shall not be: <A>]

[A> (1) construed to create or deny civil liability for any person; or <A>]

[A> (2) admissible as evidence in any civil proceeding. <A>]

[\*3] Sec. 3. 18 V.S.A. Section 1124 is amended as follows:

#### Section 1124. ACCESS TO [A> AND REPORTING OF IMMUNIZATION <A>] RECORDS

[A> (a) In addition to any data collected in accordance with the requirements of the Centers for Disease Control and Prevention, the Vermont department of health shall annually collect from schools the immunization rates for at least those students in the first and eighth grades for each required vaccine. The data collected by the department shall include the number of medical, philosophical, and religious exemptions filed for each required vaccine and the number of students with a provisional admittance. <A>]

[A> (b) <A>] Appropriate health personnel, including school nurses, shall have access to immunization records of anyone enrolled in Vermont schools or child care facilities, when access is required in the performance of official duties related to the immunizations required by this subchapter. Access to student immunization records shall only be provided with the prior written consent of parents and students as required by the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g, and any regulations adopted thereunder.

[\*4] Sec. 4. 18 V.S.A. Section 1130(b)(1) is amended to read:

(b)(1) The department of health shall establish an immunization pilot program with the ultimate goal of ensuring universal access to vaccines for all Vermonters at no charge to the individual and to reduce the cost at which the state may purchase vaccines. The pilot program shall be in effect from January 1, 2010, through December 31, [D> 2012 <D] [A> 2014 <A>] . During the term of the pilot program, the department shall purchase, provide for the distribution of, and monitor the use of vaccines as provided for in this subsection and subsection (c) of this section. The cost of the vaccines and an administrative surcharge shall be reimbursed by health insurers as provided for in subsections (e) and (f) of this section.

[\*5] Sec. 5. REPORT

[A> The Vermont department of health shall submit a report to the general assembly on or before January 15, 2014 containing data collected pursuant to 18 V.S.A. Section 1124(a) for the purpose of informing future policy discussions regarding immunization exemptions. <A]

[\*6] Sec. 6. INTERIM WORKING GROUP ON PROTECTING IMMUNOCOMPROMISED STUDENTS AND STUDENTS WITH SPECIAL HEALTH NEEDS

[A> (a) The departments of education and of health shall convene a working group on how to protect immunocompromised students and students with special health needs, which shall study the feasibility of allowing these students to enroll in a public school maintained by an adjoining school district, where the adjoining school district has a higher immunization rate than the school maintained by the student's school district of residence. For the purpose of protecting immunocompromised students and students with special health needs, the working group shall also assess the necessity and practicability of requiring adults employed at schools to be fully immunized. The working group shall submit a report of its findings and recommendations to the senate committee on health and welfare and the house committee on health care on or before January 1, 2013. <A]

[A> (b) The working group shall be composed of the following members: <A]

[A> (1) the commissioner of education or designee, who shall serve as co-chair; <A]

[A> (2) the commissioner of health or designee, who shall serve as co-chair; <A]

[A> (3) one medical professional with training or experience treating immunocompromised patients, appointed by the commissioner of health; <A]

[A> (4) one medical professional specializing in pediatric care, appointed by the commissioner of health; <A]

[A> (5) the executive director of the Vermont Superintendents Association; and <A]

[A> (6) a member of the Vermont-National Education Association. <A]

[A> (c) For the purposes of its study, the working group shall have joint administrative support from the departments of education and of health. <A]

[A> (d) The working group on protecting immunocompromised students shall cease to exist on January 31, 2013. <A]

[\*7] Sec. 7. EFFECTIVE DATE

[A> This act shall take effect on July 1, 2012. <A]

**HISTORY:**

Approved by the Governor May 16, 2012

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\*\*\* Current through the 2013 Sessions \*\*\*  
\*\*\* of the General Assembly and Acts 2014, c. 1. \*\*\*  
\*\*\* Annotations current through January 24, 2014. \*\*\*

TITLE 23. EDUCATIONAL INSTITUTIONS  
CHAPTER 1. GENERAL PROVISIONS

GO TO CODE OF VIRGINIA ARCHIVE DIRECTORY

Va. Code Ann. § 23-7.5 (2014)

§ 23-7.5. Health histories required; immunizations

A. No full-time student shall be enrolled for the first time in any four-year, public institution of higher education in this Commonwealth unless he has furnished, before the beginning of the second semester or quarter of enrollment, a health history consistent with guidelines adopted by each institution's board of visitors, pursuant to the requirements of this section. Any student who fails to furnish the history will not be eligible for registration for the second semester or quarter. Any student who objects on religious grounds shall be exempt from the health history requirement set forth in this section.

B. The health history shall include documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated. Prior to enrollment, all students shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the guidelines of the American College Health Association.

C. In addition to the immunization requirements set forth in subsection B, all incoming full-time students, prior to enrollment in any public four-year institution of higher education, shall be vaccinated against (i) meningococcal disease and (ii) hepatitis B.

However, if the institution of higher education provides the student or, if the student is a minor, the student's parent or other legal representative, detailed information on the risks associated with meningococcal disease and hepatitis B and on the availability and effectiveness of any vaccine, the student or, if the student is a minor, the student's parent or other legal representative may sign a written waiver stating that he has received and reviewed the information on meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine and has chosen not to be or not to have the student vaccinated.

D. Any student shall be exempt from the immunization requirements set forth in this section who (i) objects on the grounds that administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board of Health, or (ii) presents a statement from a licensed physician which states that his physical condition is such that administration of one or more of the required immunizing agents would be detrimental to his health.

E. The Board and Commissioner of Health shall cooperate with any board of visitors seeking assistance in the implementation of this section.

F. Further, the State Council of Higher Education shall, in cooperation with the Board and Commissioner of Health, encourage private colleges and universities to develop a procedure for providing information about the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine against meningococcal disease and hepatitis B.

**HISTORY:** 1986, c. 621; 1987, c. 366; 1990, c. 273; 2001, c. 340; 2005, c. 15.

**NOTES:** THE 2001 AMENDMENTS. --The 2001 amendment by c. 340 added the subsection A and B designators, added subsection C, added the subsection D and E designators, and added subsection F.

THE 2005 AMENDMENTS. --The 2005 amendment by c. 15, in subsection C, inserted "(i)" preceding "meningococcal disease" and added "and (ii) hepatitis B" thereafter; and inserted "and hepatitis B" following "meningococcal disease" throughout the section.



1990 1990, c. 273; (Effective July 1, 1991)

CH. 272]

ACTS OF ASSEMBLY

375

Virginia Racing Commission in excess of the amount deposited in the General Fund of the Commonwealth pursuant to ~~§ 88.1-88.1~~ Chapter 29 (~~§ 59.1-364 et seq.~~) of Title 59.1 of the Code of Virginia, reduced by any amounts previously released or appropriated.

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## CHAPTER 273

*An Act to amend and reenact § 23-7.5 of the Code of Virginia, relating to health histories and immunizations.*

[H 845]

Approved March 24, 1990

Be it enacted by the General Assembly of Virginia:

1. That § 23-7.5 of the Code of Virginia is amended and reenacted as follows:

§ 23-7.5. Health histories required; immunizations.—No full-time student shall be enrolled for the first time in any four-year, public institution of higher education in this Commonwealth unless he has furnished, before the beginning of the second semester or quarter of enrollment, a health history consistent with guidelines adopted by each institution's board of visitors, pursuant to the requirements of this section. Any student who fails to furnish the history will not be eligible for registration for the second semester or quarter. Any student who objects on religious grounds shall be exempt from the health history requirement set forth in this section.

The health history shall include documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated. Prior to enrollment, all students shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola), and German measles (rubella), and mumps according to the guidelines of the American College Health Association.

Any student shall be exempt from the immunization requirements set forth in this section who (i) objects on the grounds that administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board of Health, or (ii) presents a statement from a licensed physician which states that his physical condition is such that administration of one or more of the required immunizing agents would be detrimental to his health.

The Board and Commissioner of Health shall cooperate with any board of visitors seeking assistance in the implementation of this section.

2. That this act shall become effective July 1, 1991.

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## CHAPTER 274

*An Act to amend and reenact § 37.1-67.6 of the Code of Virginia, relating to appeal of commitment or certification order.*

[H 1013]

Approved March 24, 1990

2001 2001, c. 340; (Approved March 19, 2001)

CH. 339]

ACTS OF ASSEMBLY

309

### CHAPTER 339

*An Act to amend and reenact § 54.1-2003 of the Code of Virginia, relating to the educational requirements for CPA certificate.*

[H 2757]

Approved March 19, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2003 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2003. Grant of CPA certificate; restrictions on practice; educational and experience requirements.

A. The Board shall issue a CPA certificate only to a person who meets the character, education, experience and examination requirements established in this chapter and by regulations of the Board and shall renew such certificate only if the certificate holder meets the requirements established by § 54.1-2004.

B. Before an applicant for a CPA certificate may sit for the examination prescribed by this section, the following education requirements shall be met:

1. For persons applying to sit for the examination prior to July 1, 2006, a baccalaureate degree or its equivalent conferred by an accredited college or university with an accounting concentration or equivalent as defined by Board regulations.

2. For persons applying to sit for the examination on or after July 1, 2006, at least 150 semester hours of college education, including a baccalaureate or higher degree conferred by an accredited college or university with the total educational program to include an accounting concentration or equivalent as defined by Board regulations.

C. An applicant for initial issuance of a CPA certificate shall provide proof acceptable to the Board that the applicant has had at least one year of acceptable experience in accounting or a related field. This experience may include providing any type of service or advice involving the use of accounting, management, financial, tax or consulting advisory skills or services. Acceptable experience shall include employment in government, industry, academia or public accounting or related services.

D. The Board shall grant all privileges of Virginia CPA certificate holders to persons who were granted CPA certificates or licenses in other jurisdictions who can demonstrate that they are eligible under the substantial equivalency provisions set forth in § 54.1-2004.1.

E. For the purpose of meeting the examination requirements of this section, the Board may admit for examination graduates of (i) Bristol College, Bristol, Tennessee, who have otherwise completed the course work and credit hours required by this chapter and (ii) Benjamin Franklin School of Accountancy and Financial Administration, Washington, D.C., who have otherwise completed the course work and credit hours required by this chapter.

F. For the purpose of meeting the examination requirements of this section, the Board shall admit graduates with a baccalaureate degree with a major in accounting or a concentration in accounting from National Business College of Virginia College of Business and Technology who have otherwise completed the course work and credit hours required by this chapter.

### CHAPTER 340

*An Act to amend and reenact § 23-7.5 of the Code of Virginia, relating to immunization of full-time four-year students enrolled in public institutions of higher education against meningococcal disease.*

[H 2762]

Approved March 19, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 23-7.5 of the Code of Virginia is amended and reenacted as follows:

§ 23-7.5. Health histories required; immunizations.

A. No full-time student shall be enrolled for the first time in any four-year, public institution of higher education in this Commonwealth unless he has furnished, before the beginning of the second semester or quarter of enrollment, a health history consistent with guidelines adopted by each institution's board of visitors, pursuant to the requirements of this section. Any student who fails to furnish the history will not be eligible for registration for the second semester or quarter. Any student who objects on religious grounds shall be exempt from the health history requirement set forth in this section.

B. The health history shall include documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated. Prior to enrollment, all students shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the guidelines of the American College Health Association.

*C. In addition to the immunization requirements set forth in subsection B, all incoming full-time students, prior to enrollment in any public four-year institution of higher education, shall be vaccinated against meningococcal disease.*

*However, if the institution of higher education provides the student or, if the student is a minor, the student's parent or other legal representative, detailed information on the risks associated with meningococcal disease and on the availability and effectiveness of any vaccine, the student or, if the student is a minor, the student's parent or other legal representative may sign a written waiver stating that he has received and reviewed the information on meningococcal disease and the availability and effectiveness of any vaccine and has chosen not to be or not to have the student vaccinated.*

*D. Any student shall be exempt from the immunization requirements set forth in this section who (i) objects on the grounds that administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board of Health, or (ii) presents a statement from a licensed physician which states that his physical condition is such that administration of one or more of the required immunizing agents would be detrimental to his health.*

*E. The Board and Commissioner of Health shall cooperate with any board of visitors seeking assistance in the implementation of this section.*

*F. Further, the State Council of Higher Education shall, in cooperation with the Board and Commissioner of Health, encourage private colleges and universities to develop a procedure for providing information about the risks associated with meningococcal disease and the availability and effectiveness of any vaccine against meningococcal disease.*

#### CHAPTER 341

*An Act to amend and reenact §§ 32.1-276.3, 32.1-276.6, 32.1-276.8 and 32.1-276.9 of the Code of Virginia, relating to health care data reporting.*

[H 2763]

Approved March 19, 2001

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-276.3, 32.1-276.6, 32.1-276.8 and 32.1-276.9 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-276.3. (Effective until July 1, 2003) Definitions.**

As used in this chapter:

"Board" means the Board of Health.

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services, (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Health care provider" means (i) a general hospital, ordinary hospital, outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 of Chapter 5 (§ 32.1-123 et seq.) of Title 32.1; (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1; (iii) a hospital operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services; (iv) a hospital operated by the University of Virginia or the Virginia Commonwealth University Health System Authority; (v) any person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; or (vi) any person licensed to furnish health care policies or plans pursuant to Chapter 34 (§ 38.2-3400 et seq.), Chapter 42 (§ 38.2-4200), or Chapter 43 (§ 38.2-4300) of Title 38.2. In no event shall such term be construed to include continuing care retirement communities which file annual financial reports with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 or any nursing care facility of a religious body which depends upon prayer alone for healing.

"Health maintenance organization" means any person who undertakes to provide or to arrange for one or more health care plans pursuant to Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2.

"Inpatient hospital" means a hospital providing inpatient care and licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of this title, a hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1, a hospital operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services for the care and treatment of the mentally ill, or a hospital operated by the University of Virginia or the Virginia Commonwealth University Health System Authority.

"Nonprofit organization" means a nonprofit, tax-exempt health data organization with the characteristics, expertise, and capacity to execute the powers and duties set forth for such entity in this chapter.

"Outpatient surgery" means all surgical procedures performed on an outpatient basis in a general hospital, ordinary hospital, outpatient surgical hospital or other facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of this title or in a physician's office. Outpatient surgery refers only to those surgical procedure groups on which data are collected by the nonprofit organization as a part of a pilot study.

"Physician" means a person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.

2005 2005, c. 15. (Approved march 20, 2005)

CH. 15]

ACTS OF ASSEMBLY

35

## CHAPTER 15

*An Act to amend and reenact § 23-7.5 of the Code of Virginia, relating to required health histories for students enrolled in public institutions of higher education.*

[§ 712]

Approved March 20, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 23-7.5 of the Code of Virginia is amended and reenacted as follows:

§ 23-7.5. Health histories required; immunizations.

A. No full-time student shall be enrolled for the first time in any four-year, public institution of higher education in this Commonwealth unless he has furnished, before the beginning of the second semester or quarter of enrollment, a health history consistent with guidelines adopted by each institution's board of visitors, pursuant to the requirements of this section. Any student who fails to furnish the history will not be eligible for registration for the second semester or quarter. Any student who objects on religious grounds shall be exempt from the health history requirement set forth in this section.

B. The health history shall include documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated. Prior to enrollment, all students shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the guidelines of the American College Health Association.

C. In addition to the immunization requirements set forth in subsection B, all incoming full-time students, prior to enrollment in any public four-year institution of higher education, shall be vaccinated against (i) meningococcal disease and (ii) hepatitis B.

However, if the institution of higher education provides the student or, if the student is a minor, the student's parent or other legal representative, detailed information on the risks associated with meningococcal disease and hepatitis B and on the availability and effectiveness of any vaccine, the student or, if the student is a minor, the student's parent or other legal representative may sign a written waiver stating that he has received and reviewed the information on meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine and has chosen not to be or not to have the student vaccinated.

D. Any student shall be exempt from the immunization requirements set forth in this section who (i) objects on the grounds that administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board of Health, or (ii) presents a statement from a licensed physician which states that his physical condition is such that administration of one or more of the required immunizing agents would be detrimental to his health.

E. The Board and Commissioner of Health shall cooperate with any board of visitors seeking assistance in the implementation of this section.

F. Further, the State Council of Higher Education shall, in cooperation with the Board and Commissioner of Health, encourage private colleges and universities to develop a procedure for providing information about the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine against meningococcal disease and hepatitis B.

## CHAPTER 16

*An Act to amend and reenact § 63.2-301 of the Code of Virginia, relating to local boards of social services; member terms of offices.*

[§ 730]

Approved March 20, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-301 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-301. Local board appointments and terms of office.

The members of each local board first appointed shall be appointed initially for terms of from one to four years so as to provide for the balanced overlapping of the terms of the membership thereon and the members of a local board representing more than one county or city shall be appointed initially for such terms, of not less than one nor more than four years, as may be determined by the governing bodies of their respective counties or cities. Subsequent appointments shall be for a term of four years each, except that appointments to fill vacancies that occur during terms shall be for the remainder of those unexpired terms. Appointments to fill unexpired terms shall not be considered full terms, and such persons shall be eligible to be appointed to two consecutive full terms. No person may serve more than two consecutive full terms; however, this section shall not apply where a local government official is constituted to be the local board. A member of a local board who serves two consecutive full terms shall be ineligible for reappointment to such local board until the end of an intervening ~~two~~ two-year period dating from the expiration of the last of the two consecutive terms.

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\*\*\* Statutes current through 2013 3rd special session \*\*\*

TITLE 28A. COMMON SCHOOL PROVISIONS  
CHAPTER 28A.210. HEALTH -- SCREENING AND REQUIREMENTS

[GO TO REVISED CODE OF WASHINGTON ARCHIVE DIRECTORY](#)

Rev. Code Wash. (ARCW) § 28A.210.090 (2013)

§ 28A.210.090. Immunization program -- Exemptions

(1) Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the certifications required by this section, on a form prescribed by the department of health:

(a) A written certification signed by a health care practitioner that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(b) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; or

(c) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child.

(2) (a) The form presented on or after July 22, 2011, must include a statement to be signed by a health care practitioner stating that he or she provided the signator with information about the benefits and risks of immunization to the child. The form may be signed by a health care practitioner at any time prior to the enrollment of the child in a school or licensed day care. Photocopies of the

signed form or a letter from the health care practitioner referencing the child's name shall be accepted in lieu of the original form.

(b) A health care practitioner who, in good faith, signs the statement provided for in (a) of this subsection is immune from civil liability for providing the signature.

(c) Any parent or legal guardian of the child or any adult in loco parentis to the child who exempts the child due to religious beliefs pursuant to subsection (1)(b) of this section is not required to have the form provided for in (a) of this subsection signed by a health care practitioner if the parent or legal guardian demonstrates membership in a religious body or a church in which the religious beliefs or teachings of the church preclude a health care practitioner from providing medical treatment to the child.

(3) For purposes of this section, "health care practitioner" means a physician licensed under chapter 18.71 or 18.57 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A or 18.57A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

**HISTORY:** 2011 c 299 § 1; 1991 c 3 § 290; 1990 c 33 § 193; 1984 c 40 § 5; 1979 ex.s. c 118 § 4. Formerly RCW 28A.31.106.

**NOTES:** SEVERABILITY -- 1984 C 40: See note following RCW 28A.195.050.

EFFECTIVE DATE -- SEVERABILITY -- 1979 EX.S. C 118: See notes following RCW 28A.210.060.

#### EFFECT OF AMENDMENTS.

2011 c 299 § 1, effective July 22, 2011, added the (1) designation; redesignated former (1), (2), and (3) as (1)(a), (1)(b), and (1)(c); substituted "any one or more of the certifications required by this section" for "any one or more of the following" in the introductory paragraph of (1); substituted "a health care practitioner" for "any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW" in (1)(a); substituted "or" for "and" at the end of (1)(b); and added (2) and (3).

Childhood & Student Vaccinations

OPINIONS OF THE ATTORNEY GENERAL

ANALYSIS

Constitutionality

CONSTITUTIONALITY.

Constitutionality of mandatory immunization of school children. AGO 1979 No. 6; 1979 Op. Atty Gen. Wash. No. 6.

1984 1984 c 40 § 5; (approved February 29, 1984)

Ch. 40

WASHINGTON LAWS, 1984

## CHAPTER 40

[Substitute House Bill No. 145]

### SUPERINTENDENT OF PUBLIC INSTRUCTION—DUTIES MODIFIED

AN ACT Relating to education; amending section 6, chapter 92, Laws of 1974 ex. sess. and RCW 28A.02.250; amending section 28A.04.120, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 173, Laws of 1979 ex. sess. and RCW 28A.04.120; amending section 1, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.100; amending section 2, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.102; amending section 4, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.106; amending section 5, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.108; amending section 6, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.110; amending section 8, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.114; amending section 9, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.116; amending section 1, chapter 41, Laws of 1975 1st ex. sess. and RCW 28A.60.350; repealing section 2, chapter 60, Laws of 1975 1st ex. sess. and RCW 28A.03.051; repealing section 23, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.036; repealing section 12, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.122; repealing section 16, chapter 339, Laws of 1977 ex. sess. and RCW 28A.58.756; repealing section 2, chapter 41, Laws of 1975 1st ex. sess. and RCW 28A.60.352; and repealing section 28A.98.020, chapter 223, Laws of 1969 ex. sess. and RCW 28A.98.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 6, chapter 92, Laws of 1974 ex. sess. and RCW 28A.02.250 are each amended to read as follows:

The superintendent of public instruction is hereby directed to appoint a private school advisory committee that is broadly representative of educators, legislators, and various private school groups in the state of Washington. ~~((By July 1 of 1975, after consultation with the advisory committee herein created, the superintendent of public instruction shall make recommendations to the legislature concerning how the approval and accreditation processes for private schools can be improved.))~~

Sec. 2. Section 28A.04.120, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 173, Laws of 1979 ex. sess. and RCW 28A.04.120 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.

(2) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) above, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

(3) Supervise the issuance of such certificates as provided for in subsection (1) above and specify the types and kinds of certificates necessary



## Ch. 40

## WASHINGTON LAWS, 1984

throughout the state whose duties shall include a familiarization therewith as well as the means of implementation thereof at their particular school.

~~((12))~~ (11) Hear and decide appeals as otherwise provided by law.

Sec. 3. Section 1, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.100 are each amended to read as follows:

In enacting RCW 28A.31.100 through ~~((28A.31.122))~~ 28A.31.120, it is the judgment of the legislature that it is necessary to protect the health of the public and individuals by providing a means for the eventual achievement of full immunization of school-age children against certain vaccine-preventable diseases.

Sec. 4. Section 2, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.102 are each amended to read as follows:

As used in RCW 28A.31.100 through ~~((28A.31.122))~~ 28A.31.120:

(1) "Chief administrator" shall mean the person with the authority and responsibility for the immediate supervision of the operation of a school or day care center as defined in this section or, in the alternative, such other person as may hereafter be designated in writing for the purposes of RCW 28A.31.100 through ~~((28A.31.122))~~ 28A.31.120 by the statutory or corporate board of directors of the school district, school, or day care center or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district, school or day care center.

(2) "Full immunization" shall mean immunization against certain vaccine-preventable diseases in accordance with schedules and with immunizing agents approved by the state board of health.

(3) "Local health department" shall mean the city, town, county, district or combined city-county health department, board of health, or health officer which provides public health services.

(4) "School" shall mean and include each building, facility, and location at or within which any or all portions of a preschool, kindergarten and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.04.120(4) and 28A.02.201 through 28A.02.260, each as now or hereafter amended.

(5) "Day care center" shall mean an agency which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW.

Sec. 5. Section 4, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.106 are each amended to read as follows:

## WASHINGTON LAWS, 1984

## Ch. 40

Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.31.100 through ~~((28A.31.122))~~ 28A.31.120 upon the presentation of any one or more of the following, on a form prescribed by the department of social and health services:

(1) A written certification signed by any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(2) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; and

(3) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child.

Sec. 6. Section 5, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.108 are each amended to read as follows:

The requirements of RCW 28A.31.100 through ~~((28A.31.122))~~ 28A.31.120 shall not apply to any person eighteen years of age or older, nor shall they apply to any female person twelve years of age or older with respect to immunization for rubella.

Sec. 7. Section 6, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.110 are each amended to read as follows:

The immunizations required by RCW 28A.31.100 through ~~((28A.31.122))~~ 28A.31.120 may be obtained from any private or public source desired: PROVIDED, That the immunization is administered and records are made in accordance with the regulations of the state board of health. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco parentis to the child, with a written record of immunization given in a form prescribed by the state board of health.

Sec. 8. Section 8, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.114 are each amended to read as follows:

Upon notification by the local health department, it shall be the duty of the chief administrator of every public and private school and day care center to prohibit the further presence at the school or day care center for any and all purposes of each child for whom proof of immunization, certification of exemption, or proof of compliance with an approved schedule of immunization has not been provided in accordance with RCW 28A.31.104 and to continue to prohibit the child's presence until such proof of immunization, certification of exemption, or approved schedule has been provided. The exclusion of a child from a school shall be accomplished in accordance

1990 ; 1990 c 33 § 193; (Approved March 13, 1990)  
**Ch. 31 WASHINGTON LAWS, 1990**

addition, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.

Passed the Senate February 6, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

## CHAPTER 32

[House Bill No. 2032]

### RECREATIONAL FACILITIES DEFINED

AN ACT Relating to parks and recreation districts; and amending RCW 36.69.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 36.69.010, chapter 4, Laws of 1963 as last amended by section 1, chapter 94, Laws of 1972 ex. sess. and RCW 36.69.010 are each amended to read as follows:

Park and recreation districts are hereby authorized to be formed in each and every class of county as municipal corporations for the purpose of providing leisure time activities and facilities and recreational facilities, of a nonprofit nature as a public service to the residents of the geographical areas included within their boundaries.

The term "recreational facilities" means parks, playgrounds, gymnasiums, swimming pools, field houses, bathing beaches, stadiums, golf courses, automobile race tracks and drag strips, coliseums for the display of spectator sports, public campgrounds, boat ramps and launching sites, public hunting and fishing areas, arboretums, bicycle and bridle paths, senior citizen centers, community centers, and other recreational facilities.

Passed the House February 7, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

## CHAPTER 33

[House Bill No. 2276]

### TITLE 28A RCW—REORGANIZATION

AN ACT Relating to reorganization of Title 28A RCW; amending RCW 28A.01.020, 28A.01.130, 28A.41.110, 28A.58.750, 28A.58.754, 28A.58.758, 28A.41.130, 28A.41.140, 28A.41.160, 28A.41.160, 28A.41.170, 28A.41.145, 28A.41.150, 28A.41.162, 28A.41.050, 28A.41.053, 28A.41.055, 28A.41.112, 28A.41.175, 28A.13.005, 28A.13.010, 28A.13.020, 28A.13.030, 28A.13.040, 28A.13.045, 28A.13.060, 28A.13.070, 28A.13.080, 28A.03.300, 28A.03.320, 28A.03.367, 28A.24.055, 28A.24.065, 28A.24.111, 28A.24.120, 28A.24.170, 28A.24.172, 28A.24.175, 28A.58.428, 28A.58.133, 28A.41.505, 28A.41.510, 28A.41.515, 28A.41.520, 28A.41.525, 28A.41.540, 28A.41.180, 28A.120.014, 28A.120.016, 28A.120.022,

## WASHINGTON LAWS, 1990

## Ch. 33

(5) "Day care center" shall mean an agency which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW.

(6) "Child" shall mean any person, regardless of age, in attendance at a public or private school or a licensed day care center.

Sec. 192. Section 3, chapter 118, Laws of 1979 ex. sess. as amended by section 1, chapter 49, Laws of 1985 and RCW 28A.31.104 are each amended to read as follows:

The attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school or center, of proof of either (1) full immunization, (2) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or (3) a certificate of exemption as provided for in RCW ((28A.31.106)) 28A.210.090. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center.

Sec. 193. Section 4, chapter 118, Laws of 1979 ex. sess. as amended by section 5, chapter 40, Laws of 1984 and RCW 28A.31.106 are each amended to read as follows:

Any child shall be exempt in whole or in part from the immunization measures required by RCW ((28A.31.106 through 28A.31.120)) 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the following, on a form prescribed by the department of social and health services:

(1) A written certification signed by any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child; PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(2) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; and

(3) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child.

## WASHINGTON LAWS, 1990

## Ch. 35

or the application of the provision to other persons or circumstances is not affected.

Passed the House January 19, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

## CHAPTER 34

[House Bill No. 2292]

## FAMILY FISHING DAYS

AN ACT Relating to authorizing family fishing days for food fish and shellfish; creating a new section; and adding a new section to chapter 75.25 RCW.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. The legislature finds that conservation and wise use of the state's food fish and shellfish resources are of paramount importance. The legislature finds that public awareness and enjoyment is critical to conserving the state's food fish and shellfish resources. The legislature finds that public awareness can be increased if the departments of wildlife and fisheries jointly participate in a national fishing week program by scheduling free family fishing days on the same days.

**NEW SECTION.** Sec. 2. A new section is added to chapter 75.25 RCW to read as follows:

Notwithstanding RCW 75.25.090, the director may adopt rules designating times and places for the purposes of family fishing days when a recreational fishing license is not required to fish for food fish or shellfish. All other applicable laws and rules shall remain in effect.

Passed the House January 29, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

## CHAPTER 35

[Substitute House Bill No. 2293]

## GROUP FISHING PERMITS—HANDICAPPED PERSONS

AN ACT Relating to group fishing permits; amending RCW 75.08.011 and 77.32.235; adding a new section to chapter 75.25 RCW; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. It is the intent of the legislature to make recreational fishing opportunities more available to physically or mentally

1991 ; 1991 c 3 § 290 (Effective July 28, 1991)

**WASHINGTON LAWS, 1991****Ch. 3****CHAPTER 3****[House Bill 1115]****HEALTH DEPARTMENT—REVISION OF STATUTORY  
REFERENCES AFFECTED BY CREATION OF DEPARTMENT****Effective Date: 7/28/91**

AN ACT Relating to the correction of references that are incorrect or obsolete as a result of the creation of the department of health by chapter 9, Laws of 1989 1st ex.s.; amending RCW 15.36.425, 16.70.010, 16.70.020, 18.06.010, 18.06.020, 18.06.030, 18.06.050, 18.06.060, 18.06.070, 18.06.080, 18.06.110, 18.06.120, 18.06.130, 18.06.140, 18.06.160, 18.06.170, 18.06.180, 18.06.190, 18.19.020, 18.19.030, 18.19.050, 18.19.070, 18.19.080, 18.19.090, 18.19.100, 18.19.110, 18.19.120, 18.19.130, 18.19.140, 18.19.150, 18.19.160, 18.19.170, 18.19.180, 18.20.020, 18.20.060, 18.25.006, 18.25.017, 18.25.020, 18.25.040, 18.25.070, 18.25.075, 18.25.100, 18.26.020, 18.26.050, 18.26.070, 18.29.021, 18.29.045, 18.29.060, 18.29.071, 18.29.100, 18.29.110, 18.29.120, 18.29.130, 18.29.140, 18.29.150, 18.29.160, 18.29.180, 18.32.010, 18.32.030, 18.32.037, 18.32.040, 18.32.100, 18.32.110, 18.32.120, 18.32.160, 18.32.170, 18.32.180, 18.32.190, 18.32.195, 18.32.220, 18.32.520, 18.32.534, 18.32.745, 18.34.020, 18.34.030, 18.34.070, 18.34.080, 18.34.110, 18.34.120, 18.35.010, 18.35.040, 18.35.060, 18.35.080, 18.35.090, 18.35.240, 18.35.250, 18.36A.020, 18.36A.030, 18.36A.040, 18.36A.050, 18.36A.060, 18.36A.070, 18.36A.080, 18.36A.090, 18.36A.100, 18.36A.110, 18.36A.120, 18.36A.130, 18.36A.140, 18.46.010, 18.46.050, 18.50.005, 18.50.010, 18.50.020, 18.50.034, 18.50.040, 18.50.045, 18.50.050, 18.50.060, 18.50.102, 18.50.105, 18.50.115, 18.50.135, 18.50.140, 18.50.150, 18.52.020, 18.52.060, 18.52.070, 18.52.100, 18.52.110, 18.52.130, 18.52A.020, 18.52A.030, 18.52B.050, 18.52B.080, 18.52B.110, 18.52B.120, 18.52B.150, 18.52B.160, 18.52C.020, 18.52C.030, 18.52C.040, 18.53.021, 18.53.050, 18.53.060, 18.53.070, 18.53.100, 18.53.140, 18.54.050, 18.54.070, 18.54.140, 18.55.020, 18.55.030, 18.55.040, 18.55.050, 18.55.060, 18.57.001, 18.57.020, 18.57.050, 18.57.080, 18.57.130, 18.59.020, 18.59.080, 18.59.090, 18.59.110, 18.59.150, 18.71.010, 18.71.015, 18.71.040, 18.71.050, 18.71.051, 18.71.080, 18.71.095, 18.71.200, 18.72.100, 18.72.120, 18.72.155, 18.72.306, 18.72.380, 18.72.400, 18.74.010, 18.74.010, 18.74.020, 18.74.023, 18.74.035, 18.74.040, 18.74.050, 18.74.060, 18.74.070, 18.74.090, 18.74.095, 18.74.120, 18.76.020, 18.78.010, 18.78.050, 18.78.060, 18.78.080, 18.78.100, 18.78.110, 18.78.225, 18.83.010, 18.83.025, 18.83.045, 18.83.050, 18.83.060, 18.83.072, 18.83.080, 18.83.090, 18.83.105, 18.83.170, 18.83.190, 18.84.020, 18.84.040, 18.84.050, 18.84.060, 18.84.070, 18.84.080, 18.84.090, 18.84.100, 18.84.110, 18.88.030, 18.88.080, 18.88.090, 18.88.160, 18.88.175, 18.88.190, 18.88.200, 18.88.220, 18.88A.020, 18.88A.050, 18.88A.070, 18.88A.080, 18.88A.090, 18.88A.100, 18.89.020, 18.89.050, 18.89.060, 18.89.070, 18.89.080, 18.89.090, 18.89.100, 18.89.110, 18.89.120, 18.89.130, 18.89.140, 18.92.015, 18.92.035, 18.92.040, 18.92.047, 18.92.070, 18.92.100, 18.92.115, 18.92.120, 18.92.130, 18.92.140, 18.92.145, 18.104.040, 18.104.080, 18.104.110, 18.108.010, 18.108.020, 18.108.025, 18.108.040, 18.108.060, 18.108.070, 18.108.073, 18.108.085, 18.122.040, 18.122.060, 18.122.070, 18.122.080, 18.122.090, 18.122.120, 18.122.130, 18.122.140, 18.122.150, 18.130.060, 18.130.175, 18.135.020, 18.135.030, 18.135.050, 18.135.055, 18.135.065, 18.135.080, 18.138.010, 18.138.020, 18.138.030, 18.138.040, 18.138.050, 18.138.060, 18.138.070, 18.138.080, 18.138.090, 19.32.110, 26.33.300, 28A.210.030, 28A.210.090, 28A.210.110, 28B.104.060, 43.03.028, 43.20B.020, 43.20B.110, 43.59.030, 43.70.320, 43.83B.380, 43.99D.025, 43.99E.025, 69.30.010, 69.30.080, 70.05.053, 70.05.054, 70.05.055, 70.05.060, 70.05.070, 70.05.080, 70.05.090, 70.05.100, 70.05.130, 70.08.050, 70.12.015, 70.12.070, 70.22.020, 70.22.030, 70.22.040, 70.22.050, 70.22.060, 70.24.017, 70.24.100, 70.24.120, 70.24.130, 70.24.150, 70.24.400, 70.24.410, 70.30.081, 70.33.010, 70.40.020, 70.40.030, 70.40.150, 70.41.020, 70.41.130, 70.41.200, 70.41.230, 70.41.240, 70.47.060, 70.50.010, 70.54.040, 70.58.005, 70.58.107, 70.58.310, 70.58.320, 70.58.340, 70.62.210, 70.83.020, 70.83.030, 70.83.040, 70.83B.020, 70.90.110, 70.90.130, 70.90.210, 70.98.030, 70.104.010, 70.104.030, 70.104.040, 70.104.050, 70.104.055, 70.104.057, 70.104.060, 70.104.080, 70.104.090, 70.116.010, 70.116.030, 70.118.020, 70.118.040, 70.119.020, 70.119A.020, 70.119A.080, 70.121.020, 70.127.010, 70.142.020, 70.142.050, and 74.15.060; reenacting and amending RCW 18.57A.040, 18.78.090, 18.130.190, 42.17.2401, and 43.43.735; and adding new sections to chapter 43.70 RCW.

Be it enacted by the Legislature of the State of Washington:

## WASHINGTON LAWS, 1991

## Ch. 3

and the secretary of (~~((social and health services))~~) health visual and auditory data as requested by such officials.

Sec. 290. RCW 28A.210.090 and 1990 c 33 s 193 are each amended to read as follows:

Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the following, on a form prescribed by the department of (~~((social and health services))~~) health:

(1) A written certification signed by any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(2) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; and

(3) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child.

Sec. 291. RCW 28A.210.110 and 1990 c 33 s 195 are each amended to read as follows:

A child's proof of immunization or certification of exemption shall be presented to the chief administrator of the public or private school or day care center or to his or her designee for that purpose. The chief administrator shall:

(1) Retain such records pertaining to each child at the school or day care center for at least the period the child is enrolled in the school or attends such center;

(2) Retain a record at the school or day care center of the name, address, and date of exclusion of each child excluded from school or the center pursuant to RCW 28A.210.120 for not less than three years following the date of a child's exclusion;

(3) File a written annual report with the department of (~~((social and health services))~~) health on the immunization status of students or children attending the day care center at a time and on forms prescribed by the department of (~~((social and health services))~~) health; and

(4) Allow agents of state and local health departments access to the records retained in accordance with this section during business hours for the purposes of inspection and copying.

Sec. 292. RCW 28B.104.060 and 1988 c 242 s 6 are each amended to read as follows:

**Ch. 3****WASHINGTON LAWS, 1991**

appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

**NEW SECTION.** Sec. 378. A new section is added to chapter 43.70 RCW to read as follows:

This section governs the assessment of a civil fine against a person by the department. This section does not govern actions taken under chapter 18.130 RCW.

(1) The department shall give written notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other [another] manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days after receipt. The department may make the date the fine is due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause.

Passed the House March 6, 1991.

Passed the Senate March 7, 1991.

Approved by the Governor March 22, 1991.

Filed in Office of Secretary of State March 22, 1991.



2011 2011 c 299 § 1

## WASHINGTON LAWS, 2011

Ch. 298

such a device in close proximity to the fill pipes and clearly identifiable to persons delivering regulated substance to underground storage tanks.

(b) The department may revoke a facility compliance tag if a facility is not in compliance with the requirements of this chapter, or any rules adopted under this chapter.

(6) The department may place a red tag on a tank at a facility if the department determines that the owner or operator is not in compliance with this chapter or the rules adopted under this chapter regarding the compliance requirements related to that tank. Removal of a red tag without authorization from the department is a violation of this chapter.

(7) The department may establish programs to certify persons who install or decommission underground storage tank systems or conduct inspections, testing, closure, cathodic protection, interior tank lining, corrective action, site assessments, or other activities required under this chapter. Certification programs ~~((shall))~~ must be designed to ensure that each certification will be effective in all jurisdictions of the state.

(8) When adopting rules under this chapter, the department ~~((shall))~~ must consult with the state building code council to ensure coordination with the building and fire codes adopted under chapter 19.27 RCW.

NEW SECTION. Sec. 41. RCW 19.02.901 and 19.02.910 are each decodified.

NEW SECTION. Sec. 42. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 43. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011.

Passed by the House April 7, 2011.

Passed by the Senate April 20, 2011.

Approved by the Governor May 10, 2011.

Filed in Office of Secretary of State May 11, 2011.

## CHAPTER 299

[Engrossed Senate Bill 5005]

### K-12—IMMUNIZATION—EXEMPTION

AN ACT Relating to exemption from immunization; and amending RCW 28A.210.090.

Be it enacted by the Legislature of the State of Washington:

**Sec. 1.** RCW 28A.210.090 and 1991 c 3 s 290 are each amended to read as follows:

(1) Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the ~~((following))~~ certifications required by this section, on a form prescribed by the department of health:

~~((4))~~ (a) A written certification signed by ~~((any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW))~~ a health care practitioner that a particular vaccine required by rule of the state board of health

## Ch. 299

## WASHINGTON LAWS, 2011

is, in his or her judgment, not advisable for the child: PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

~~((2))~~ (b) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; ~~((and))~~ or

~~((3))~~ (c) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child.

(2)(a) The form presented on or after the effective date of this section must include a statement to be signed by a health care practitioner stating that he or she provided the signator with information about the benefits and risks of immunization to the child. The form may be signed by a health care practitioner at any time prior to the enrollment of the child in a school or licensed day care. Photocopies of the signed form or a letter from the health care practitioner referencing the child's name shall be accepted in lieu of the original form.

(b) A health care practitioner who, in good faith, signs the statement provided for in (a) of this subsection is immune from civil liability for providing the signature.

(c) Any parent or legal guardian of the child or any adult in loco parentis to the child who exempts the child due to religious beliefs pursuant to subsection (1)(b) of this section is not required to have the form provided for in (a) of this subsection signed by a health care practitioner if the parent or legal guardian demonstrates membership in a religious body or a church in which the religious beliefs or teachings of the church preclude a health care practitioner from providing medical treatment to the child.

(3) For purposes of this section, "health care practitioner" means a physician licensed under chapter 18.71 or 18.57 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A or 18.57A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

Passed by the Senate April 21, 2011.

Passed by the House March 25, 2011.

Approved by the Governor May 10, 2011.

Filed in Office of Secretary of State May 11, 2011.

## CHAPTER 300

[Substitute Senate Bill 5025]

### PUBLIC RECORDS REQUESTS—CRIMINAL OFFENDERS—PENALTIES

AN ACT Relating to making requests by or on behalf of an inmate under the public records act ineligible for penalties; amending RCW 42.56.565; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

**Sec. 1.** RCW 42.56.565 and 2009 c 10 s 1 are each amended to read as follows:

(1) A court shall not award penalties under RCW 42.56.550(4) to a person who was serving a criminal sentence in a state, local, or privately operated correctional facility on the date the request for public records was made, unless

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\*\*\* Text Current Through The 2013 Regular And First Extraordinary Sessions \*\*\*  
 \*\*\* Annotations Current Through May 1, 2013 \*\*\*

Chapter 16. Public Health.  
 Article 3. Prevention and Control of Communicable and Other Infectious  
 Diseases.

#### GO TO WEST VIRGINIA STATUTES ARCHIVE DIRECTORY

W. Va. Code § 16-3-4 (2013)

§ 16-3-4. Compulsory immunization of school children; information  
 disseminated; offenses; penalties.

Whenever a resident birth occurs, the state director of health shall promptly  
 provide parents of the newborn child with information on immunizations  
 mandated by this state or required for admission to a public school in this state.

All children entering school for the first time in this state shall have been  
 immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping  
 cough. Any person who cannot give satisfactory proof of having been immunized  
 previously or a certificate from a reputable physician showing that an  
 immunization for any or all diphtheria, polio, rubeola, rubella, tetanus and  
 whooping cough is impossible or improper or sufficient reason why any or all  
 immunizations should not be done, shall be immunized for diphtheria, polio,  
 rubeola, rubella, tetanus and whooping cough prior to being admitted in any of  
 the schools of the state. No child or person shall be admitted or received in any  
 of the schools of the state until he or she has been immunized as hereinafter  
 provided or produces a certificate from a reputable physician showing that an  
 immunization for diphtheria, polio, rubeola, rubella, tetanus and whooping cough  
 has been done or is impossible or improper or other sufficient reason why such  
 immunizations have not been done. Any teacher having information concerning  
 any person who attempts to enter school for the first time without having been  
 immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping  
 cough shall report the names of all such persons to the county health officer. It  
 shall be the duty of the health officer in counties having a full-time health officer  
 to see that such persons are immunized before entering school: Provided, That  
 persons enrolling from schools outside of the state may be provisionally enrolled

under minimum criteria established by the Director of the Department of Health so that the person's immunization may be completed while missing a minimum amount of school: Provided, however, That no person shall be allowed to enter school without at least one dose of each required vaccine.

In counties where there is no full-time health officer or district health officer, the county commission or municipal council shall appoint competent physicians to do the immunizations and fix their compensation. County health departments shall furnish the biologicals for this immunization free of charge.

Health officers and physicians who shall do this immunization work shall give to all persons and children a certificate free of charge showing that they have been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, or he or she may give the certificate to any person or child whom he or she knows to have been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough. If any physician shall give any person a false certificate of immunization against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five nor more than one hundred dollars.

Any parent or guardian who refuses to permit his or her child to be immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, who cannot give satisfactory proof that the child or person has been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough previously, or a certificate from a reputable physician showing that immunization for any or all is impossible or improper, or sufficient reason why any or all immunizations should not be done, shall be guilty of a misdemeanor, and except as herein otherwise provided, shall, upon conviction, be punished by a fine of not less than ten nor more than fifty dollars for each offense.

**HISTORY:** 1887, c. 64, § 21; 1905, c. 58, § 21; Code 1923, c. 150, § 21; 1937, c. 129; 1967, c. 86; 1971, c. 69; 1973, c. 55; 1985, c. 93; 1987, c. 42.

**NOTES:**

LexisNexis 50 State Surveys, Legislation & Regulations

Childhood & Student Vaccinations

Notes to Decisions

Constitutionality. --

Special protection of the Due Process Clause did not include plaintiff's right to refuse to have her child immunized before attending public or private school

where immunization was a precondition to attending school; a state may constitutionally require school children to be immunized. *Workman v. Mingo County Bd. of Educ.*, -- F.3d --, 419 Fed. App. 348, -- F.3d --, 2011 U.S. App. LEXIS 5920 (4th Cir. 2011).

Mere fact that a state or municipality mandated vaccinations was not enough to support an equal protection or due process claim, and West Virginia provided administrative remedies for any person adversely affected by the enforcement of the immunization requirements desiring a contested case hearing to determine any rights, duties, interests or privileges. Therefore, because West Virginia's mandatory immunization program was consistent with the United States constitution, the mother's procedural due process rights were not violated by the administration of West Virginia's mandatory immunization program under W.V. Code § 16-3-4. *Workman v. Mingo County Sch.*, 667 F. Supp. 2d 679, 2009 U.S. Dist. LEXIS 102662 (S.D. W. Va. 2009), *aff'd*, 419 Fed. Appx. 348, \_\_\_ F.3d \_\_\_, 2011 U.S. App. LEXIS 5920 (4th Cir. W. Va. 2011).

Mother's First Amendment free exercise of religion claim failed because her beliefs did not exempt her from complying with West Virginia's mandatory immunization program, W.V. Code § 16-3-4, since it had long been recognized that local authorities may constitutionally mandate vaccinations. *Workman v. Mingo County Sch.*, 667 F. Supp. 2d 679, 2009 U.S. Dist. LEXIS 102662 (S.D. W. Va. 2009), *aff'd*, 419 Fed. Appx. 348, \_\_\_ F.3d \_\_\_, 2011 U.S. App. LEXIS 5920 (4th Cir. W. Va. 2011).

W. Va. Code § 16-3-4, the West Virginia statute requiring mandatory vaccination as a condition of attending school, did not unconstitutionally infringe plaintiff's right to free exercise of her religion because the right to practice religion freely did not include liberty to expose the community or the child to communicable disease or the latter to ill health or death, and the state's wish to prevent the spread of communicable diseases clearly constituted a compelling interest. *Workman v. Mingo County Bd. of Educ.*, -- F.3d --, 419 Fed. App. 348, -- F.3d --, 2011 U.S. App. LEXIS 5920 (4th Cir. 2011).

Failure to have records. --

The fact that a student does not have immunization records in hand when he initially presents himself for admittance does not warrant refusal to provisionally admit the student. *White ex rel. White v. Linkinoggor*, 176 W. Va. 410, 344 S.E.2d 633, 1986 W. Va. LEXIS 486 (1986).

Cited in

Durham v. Jenkins, 2012 W. Va. LEXIS 783 (Nov. 9, 2012).

Cross references. --

Persons to whom schools are open, § 18-5-15.

Compulsory school attendance, §§ 18-8-1 et seq.

Code of State Rules References. --

Communicable disease control policy (2423), 126 CSR 51, effective July 15, 1991.

Immunization criteria for transfer students, 64 CSR 58, effective April 18, 1988.

A.L.R. references. --

Power of court or other public agency to order medical treatment over parental religious objections for child whose life is not immediately endangered, 52 ALR3d 1118.

Power of court or other public agency to order medical treatment for child over parental objections not based on religious grounds, 97 ALR3d 421.

Power of court or other public agency to order medical treatment over parental religious objections for child whose life is not immediately endangered, 21 A.L.R.5th 248.

Power of court or other public agency to order vaccination over parental religious objection, 94 ALR5th 613.

1987 1987, c. 42. (passed March 12, 1987)

130

EDUCATION

[Ch. 42

## CHAPTER 42

(Com. Sub. for S. B. 491—By Senators Tonkovich, Mr. President, by request,  
and Harman)

[Passed March 12, 1987; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article three, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to immunization requirements for school entrance; and providing for provisional enrollment for certain persons having one dose of each vaccine.

*Be it enacted by the Legislature of West Virginia:*

That section four, article three, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

### ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER INFECTIOUS DISEASES.

#### §16-3-4. Compulsory immunization of school children; information disseminated; offenses; penalties.

1 Whenever a resident birth occurs, the state director  
2 of health shall promptly provide parents of the newborn  
3 child with information on immunizations mandated by  
4 this state or required for admission to a public school  
5 in this state.

6 All children entering school for the first time in this  
7 state shall have been immunized against diphtheria,  
8 polio, rubeola, rubella, tetanus and whooping cough.  
9 Any person who cannot give satisfactory proof of having  
10 been immunized previously or a certificate from a  
11 reputable physician showing that an immunization for  
12 any or all diphtheria, polio, rubeola, rubella, tetanus and  
13 whooping cough is impossible or improper or sufficient  
14 reason why any or all immunizations should not be done,  
15 shall be immunized for diphtheria, polio, rubeola,  
16 rubella, tetanus and whooping cough prior to being  
17 admitted in any of the schools in the state. No child or  
18 person shall be admitted or received in any of the  
19 schools of the state until he or she has been immunized

20 as hereinafter provided or produces a certificate from  
21 a reputable physician showing that an immunization for  
22 diphtheria, polio, rubeola, rubella, tetanus and whoop-  
23 ing cough has been done or is impossible or improper  
24 or other sufficient reason why such immunizations have  
25 not been done. Any teacher having information concern-  
26 ing any person who attempts to enter school for the first  
27 time without having been immunized against diphthe-  
28 ria, polio, rubeola, rubella, tetanus and whooping cough  
29 shall report the names of all such persons to the county  
30 health officer. It shall be the duty of the health officer  
31 in counties having a full-time health officer to see that  
32 such persons are immunized before entering school:  
33 *Provided*, That persons enrolling from schools outside of  
34 the state may be provisionally enrolled under minimum  
35 criteria established by the director of the department of  
36 health so that the person's immunization may be  
37 completed while missing a minimum amount of school:  
38 *Provided, however*, That no person shall be allowed to  
39 enter school without at least one dose of each required  
40 vaccine.

41 In counties where there is no full-time health officer  
42 or district health officer, the county commission or  
43 municipal council shall appoint competent physicians to  
44 do the immunizations and fix their compensation.  
45 County health departments shall furnish the biologicals  
46 for this immunization free of charge.

47 Health officers and physicians who shall do this  
48 immunization work shall give to all persons and  
49 children a certificate free of charge showing that they  
50 have been immunized against diphtheria, polio, rubeola,  
51 rubella, tetanus and whooping cough, or he or she may  
52 give the certificate to any person or child whom he or  
53 she knows to have been immunized against diphtheria,  
54 polio, rubeola, rubella, tetanus and whooping cough. If  
55 any physician shall give any person a false certificate  
56 of immunization against diphtheria, polio, rubeola,  
57 rubella, tetanus and whooping cough, he or she shall be  
58 guilty of a misdemeanor, and, upon conviction, shall be  
59 fined not less than twenty-five nor more than one  
60 hundred dollars.



61 Any parent or guardian who refuses to permit his or  
 62 her child to be immunized against diphtheria, polio,  
 63 rubeola, rubella, tetanus and whooping cough, who  
 64 cannot give satisfactory proof that the child or person  
 65 has been immunized against diphtheria, polio, rubeola,  
 66 rubella, tetanus and whooping cough previously, or a  
 67 certificate from a reputable physician showing that  
 68 immunization for any or all is impossible or improper,  
 69 or sufficient reason why any or all immunizations should  
 70 not be done, shall be guilty of a misdemeanor, and  
 71 except as herein otherwise provided, shall, upon  
 72 conviction, be punished by a fine of not less than ten nor  
 73 more than fifty dollars for each offense.

## CHAPTER 43

(Com. Sub. for H. B. 2212—By Delegate Hatcher)

[Passed March 14, 1967; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to grounds for the removal of county school superintendents; and providing for the suspension of county school superintendents with or without pay prior to such removal.

*Be it enacted by the Legislature of West Virginia:*

That section three, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

### ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.

#### §18-4-3. Removal and suspension.

1 The board may remove the superintendent from office  
 2 for official misconduct, insubordination, incompetence,  
 3 neglect of duty, or immorality. The charges shall be  
 4 stated in writing, and the superintendent shall be given  
 5 an opportunity to be heard by the board upon not less  
 6 than ten days' notice. The superintendent may be

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\*\*\* This document is current through Act 117, dated January 16, 2014 \*\*\*

\*\*\* The most current annotation is dated November 21, 2013 \*\*\*

HEALTH

CHAPTER 252. COMMUNICABLE DISEASES

[Go to the Wisconsin Code Archive Directory](#)

Wis. Stat. § 252.04 (2014)

**252.04.** Immunization program.

(1) The department shall carry out a statewide immunization program to eliminate mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis and other diseases that the department specifies by rule, and to protect against tetanus. Any person who immunizes an individual under this section shall maintain records identifying the manufacturer and lot number of the vaccine used, the date of immunization and the name and title of the person who immunized the individual. These records shall be available to the individual or, if the individual is a minor, to his or her parent, guardian or legal custodian upon request.

(2) Any student admitted to any elementary, middle, junior, or senior high school or into any child care center or nursery school shall, within 30 school days after the date on which the student is admitted, present written evidence to the school, child care center, or nursery school of having completed the first immunization for each vaccine required for the students grade and being on schedule for the remainder of the basic and recall (booster) immunization series for mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis, tetanus, and other diseases that the department specifies by rule or shall present a written waiver under sub. (3) .

(3) The immunization requirement is waived if the student, if an adult, or the students parent, guardian, or legal custodian submits a written statement to the school, child care center, or nursery school objecting to the immunization for reasons of health, religion, or personal conviction. At the time any school, child care center, or nursery school notifies a student, parent, guardian, or legal custodian of the immunization requirements, it shall inform the person in writing of the persons right to a waiver under this subsection.

(4) The student, if an adult, or the students parent, guardian, or legal custodian shall keep the school, child care center, or nursery school informed of the students compliance with the immunization schedule.

(5)

(a) By the 15th and the 25th school day after the date on which the student is admitted to a school, child care center, or nursery school, the school, child care center, or nursery school shall notify in writing any adult student or the parent, guardian, or legal custodian of any minor student who has not met the immunization or waiver requirements of this section. The notices shall cite the terms of those requirements and shall state that court action and forfeiture penalty could result due to noncompliance. The notices shall also explain the reasons for the immunization requirements and include information on how and where to obtain the required immunizations.

(b)

1. A school, child care center, or nursery school may exclude from the school, child care center, or nursery school any student who fails to satisfy the requirements of sub. (2) .

2. Beginning on July 1, 1993, if the department determines that fewer than 98% of the students in a child care center, nursery school, or school district who are subject to the requirements of sub. (2) have complied with sub. (2), the child care center or nursery school shall exclude any child who fails to satisfy the requirements of sub. (2) and the school district shall exclude any student enrolled in grades kindergarten to 6 who fails to satisfy the requirements of sub. (2) .

3. Beginning on July 1, 1995, if the department determines that fewer than 99% of the students in a child care center, nursery school, or school district who are subject to the requirements of sub. (2) have complied with sub. (2), the child care center or nursery school shall exclude any child who fails to satisfy the requirements of sub. (2) and the school district shall exclude any student enrolled in grades kindergarten to 6 who fails to satisfy the requirements of sub. (2) .

4. No student may be excluded from public school under this paragraph for more than 10 consecutive school days unless, prior to the 11th consecutive school day of exclusion, the school board provides the student and the students parent, guardian or legal custodian with an additional notice, a hearing and the opportunity to appeal the exclusion, as provided under s. 120.13 (1) (c) 3.

(6) The school, child care center, or nursery school shall notify the district attorney of the county in which the student resides of any minor student who fails to present written evidence of completed immunizations or a written waiver under sub. (3) within 60 school days after being admitted to the school, child care

center, or nursery school. The district attorney shall petition the court exercising jurisdiction under chs. 48 and 938 for an order directing that the student be in compliance with the requirements of this section. If the court grants the petition, the court may specify the date by which a written waiver shall be submitted under sub. (3) or may specify the terms of the immunization schedule. The court may require an adult student or the parent, guardian, or legal custodian of a minor student who refuses to submit a written waiver by the specified date or meet the terms of the immunization schedule to forfeit not more than 25 per day of violation.

(7) If an emergency arises, consisting of a substantial outbreak as determined by the department by rule of one of the diseases specified in sub. (2) at a school or in the municipality in which the school is located, the department may order the school to exclude students who are not immunized until the outbreak subsides.

(8) The department shall provide the vaccines without charge, if federal or state funds are available for the vaccines, upon request of a school district or a local health department. The department shall provide the necessary professional consultant services to carry out an immunization program, under the requirements of sub. (9), in the jurisdiction of the requesting local health department. Persons immunized may not be charged for vaccines furnished by the department.

(9)

(a) An immunization program under sub. (8) shall be supervised by a physician, selected by the school district or local health department, who shall issue written orders for the administration of immunizations that are in accordance with written protocols issued by the department.

(b) If the physician under par. (a) is not an employee of the county, city, village or school district, receives no compensation for his or her services under par. (a) and acts under par. (a) in accordance with written protocols issued by the department, he or she is a state agent of the department for the purposes of ss. 165.25 (6), 893.82 (3) and 895.46 .

(c) The department may disapprove the selection made under par. (a) or may require the removal of a physician selected.

(10) The department shall, by rule, prescribe the mechanisms for implementing and monitoring compliance with this section. The department shall prescribe, by rule, the form that any person immunizing a student shall provide to the student under sub. (1) .

(11) Annually, by July 1, the department shall submit a report to the legislature under s. 13.172 (3) on the success of the statewide immunization program under this section.

**HISTORY:** History: 1993 a. 27 ss. 181, 470; 1995 a. 32, 77, 222; 2009 a. 185.

**NOTES:**

Notes supplied by the State of Wisconsin.

Cross-reference: See definitions in s. 250.01.

Cross-reference: See also chs. DHS 144 and 146, Wis. adm. code.

1993 1993 a. 27 s 181; (Effective January 1, 1994)

- 491 -

93 WisAct 26

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 101.63 (7) of the statutes is amended to read:

101.63 (7) Prescribe and furnish to municipalities a standard building permit form for all new one- and 2-family dwellings. The standard permit form shall include a space in which the municipal authority issuing the permit shall insert the name and license

number of the master plumber engaged in supervising the installation of plumbing or installing the plumbing at a new one- or 2-family dwelling.

SECTION 2. **Initial applicability.** This act first applies to building permits issued on the effective date of this SECTION.

SECTION 3. **Effective date.** This act takes effect on the first day of the 7th month beginning after publication.

1993 Assembly Bill 585

Date of enactment: August 20, 1993

Date of publication: September 3, 1993

## 1993 Wisconsin Act 27

AN ACT to repeal 50.83, 51.44 (1) (d), ch. 140 (title), 140.03 (1) (c), 140.05 (2), 140.05 (5), 140.05 (12), 140.055 (title) and (3), 140.06 (1) (intro.), 140.08, 140.09 (title), 140.09 (1) (c), 140.09 (2), 140.09 (3), 140.09 (4) (title), 140.09 (4) (a), 140.09 (4) (b) 2, 140.09 (5), 140.09 (6) (title), 140.09 (7) (title), 140.09 (8), 140.09 (10), 140.09 (12), 140.09 (16), 140.50, 140.52 (intro.), 140.65, 140.82 (title), 140.82 (1) (a) to (L), (2) and (3), 140.85 (1) (a), 141.01 (title) (1), (1m), (1r) and (2), 141.01 (3) (a) 2, 141.01 (3) (b) and (4), 141.01 (6) (intro.), (a) and (b), 141.01 (6) (d) to (g), 141.01 (7) to (11), 141.015, 141.02, 141.045 (4), 141.05, 141.07, 141.10, 143.01 (1m), 143.04 (8), 143.14, 143.16, 143.17, 146.023 (title) and (1), 146.024 (1) (b), 146.024 (1) (c) and (f), 146.025 (1) (b) and (c), 146.025 (1) (ed), 146.028 (1) (f), 146.03, 146.04, 146.06, 146.07, 146.09, 146.13, 146.14 (title), 146.14 (3), 146.145 (1), 146.18 (title), 146.88 (1) (c) and (d), 146.882 (1) (b) and (c), ch. 149 (title), 149.04 (title), 149.04 (5) (a), 149.04 (6), 149.06 (2), 149.06 (4), 149.07 (3), 149.08 (title), 150.39 (9), ch. 151 (title) and 151.01 (1); to renumber 46.63, 50.52, 50.56, 50.58, 50.60, 50.61, 50.71, 50.84, 140.03 (title), 140.03 (1) (b) 3 to 5, 140.05 (18), 140.051, 140.053, 140.06 (title), 140.06 (1) (a) to (d), 140.06 (1) (e), 140.06 (1) (f) and (g), 140.06 (2) to (11), 140.42, 140.51, 140.52 (3) to (12), 140.61, 140.69, 140.71, 140.72, 140.73, 140.75, 140.81, 140.85 (title), 140.85 (2) and (3), 140.87, ch. 141 (title), 141.045 (title), 141.045 (6), ch. 143 (title), 143.01 (intro.), 143.01 (2), 143.03, 143.04 (title), 143.04 (2) to (4), 143.04 (7), 143.04 (11), 143.10, 143.12, 143.15, 146.015, 146.02, 146.021, 146.022 (title), 146.022 (1) (intro.), 146.022 (1) (a) and (b), 146.022 (1) (c) and (d), 146.022 (1) (dm), 146.024 (title) and (1) (intro.), (ad) and (am), 146.024 (1) (ar), 146.025 (title) and (1) (intro.) and (ad) to (ar), 146.025 (1) (eb), 146.025 (1) (eg) and (em), 146.025 (1) (fg), 146.025 (1) (fm), 146.025 (1) (g), 146.026, 146.027, 146.028 (title) and (1) (intro.) and (a) to (e), 146.08, 146.145 (title), 146.145 (2), (2m), (3) and (4), 146.185, 146.75, 146.78, 146.88 (title) and (1) (intro.), (a) and (b), 146.88 (1) (c), 146.88 (2) to (6), 146.882 (1) (d), 146.882 (2) to (6), 149.06 (title), 149.06 (3), 149.06 (5), 149.06 (9) and (10), 149.07 (1) (intro.), 151.01 (2) and (2m), 151.03, 151.07 and 151.12 (intro.); to renumber and amend 46.73, 46.79, 50.50, 50.505, 50.51, 50.515, 50.518, 50.53, 50.535, 50.54, 50.545, 50.55, 50.57, 50.575, 50.59, 50.70, 50.80, 50.81, 50.82, 50.85, 97.41 (1), 140.01 (intro.), (1) and (2), 140.02, 140.03 (1) (b) 1 and 2, 140.03 (3) and (5), 140.05 (title), 140.05 (1), 140.05 (3), 140.05 (4), 140.05 (9), 140.05 (14), 140.05 (14m), 140.05 (15), 140.05 (16) (a), (b), (c), (cm), (d), (dm), (e), (f), (fm), (g) and (h), 140.05 (17), 140.09 (1) (intro.), 140.09 (1) (a) and (b), 140.09 (4) (b) 1, 140.09 (6), 140.09 (7), 140.09 (9), 140.09 (11), 140.09 (13), 140.09 (14) (title), 140.09 (14), 140.09 (15), 140.09 (17), 140.10, 140.45, 140.53, 140.54, 140.56, 140.58, 140.59, 140.595, 140.60, 140.66, 140.67, 140.70, 140.74, 140.76, 140.77, 140.82 (1) (intro.), 140.84, 140.86, 141.01 (3) (a) 1, 141.01 (5), 141.01 (6) (c), 141.04, 141.045 (1) and (3), 141.15, 143.02, 143.04 (1), 143.04 (5), 143.04 (6), 143.04 (9), 143.05, 143.06, 143.07, 143.08, 143.11, 146.01, 146.022 (1) (e), (2) and (3), 146.023 (1m) to (5), 146.024 (1) (c) and (d), 146.024 (2) to (4), 146.025 (1) (cm) to (e), 146.025 (1) (f), 146.025 (2) to (9), 146.027, 146.0275, 146.028 (1) (g) and (2) to (8), 146.05, 146.10, 146.125, 146.14 (1) and (2), 146.14 (4) to (6), 146.18 (1), 146.18 (2), 146.18 (3), 146.24, 146.80, 146.882 (title) and (1) (intro.) and (a), 146.882 (1) (c), 149.01, 149.02, 149.03, 149.04 (4), 149.04 (5) (intro.), 149.04 (5) (b), 149.06 (1), 149.06 (6), 149.06 (7), 149.07 (title), 149.07 (1) (a) to (d) and (2), 149.08, 151.01 (intro.), 151.01 (3), 151.01 (4), 151.01 (5), 151.05, 151.09 (intro.) and (1) to (6), 151.11, 151.12 (1), 151.13 and 823.22; to consolidate, renumber and amend 140.03 (1) (intro.) and (b) (intro.), 140.055 (1) and (2), 140.85 (1) (intro.) and (b) and 151.09 (7) (intro.) and (am); to amend 13.94 (1) (dg), 14.245 (1) (d), 15.197 (21) (e), 15.197 (21) (f), 15.915 (2) (b), 16.366 (2) (c), 19.21 (5) (d) 2, 20.435 (1) (ak), 20.435 (1) (um), 20.435 (1)



studies, experiments and research independently or by contract or in cooperation with any public or private agency, organization or person including any political subdivision of the state. Individual questionnaires or surveys shall be treated as confidential patient health care records under ss. 146.81 to 146.835, but the information in those questionnaires and surveys may be released in statistical summaries.

SECTION 179. 140.05 (14m) of the statutes is renumbered 250.04 (3) (b) 4 and amended to read:

250.04 (3) (b) 4. The department may use hospital emergency room and inpatient health care records, abstracts of these records and information the state or federal government collects to correlate exposure to certain occupational and high risk environments with resulting acute or chronic health problems. If the department finds that an occupational health hazard exists, it shall disseminate its findings and promote efforts to educate employees and employers about the health hazard.

SECTION 180. 140.05 (15) of the statutes is renumbered 250.04 (5) and amended to read:

250.04 (5) Where the use of any pesticide results in a threat to the public health, the department of health and social services shall take all measures necessary to prevent morbidity or mortality.

SECTION 181. 140.05 (16) (a), (b), (c), (cm), (d), (dm), (e), (f), (fm), (g) and (h) of the statutes are renumbered 252.04 (1) to (11), and 252.04 (1) to (3) and (5) to (11), as renumbered, are amended to read:

252.04 (1) The department shall carry out a statewide immunization program to eliminate mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough) and, poliomyelitis and other diseases that the department specifies by rule, and to protect against tetanus. Any person who immunizes a student an individual under this subsection section shall maintain records identifying the manufacturer and lot number of the vaccine used, the date of immunization and the name and title of the person who immunized the student individual. These records shall be available to the student individual or the student's, if the individual is a minor, to his or her parent, guardian or legal custodian upon request.

(2) Any student admitted to any elementary, middle, junior or senior high school or into any day care center or nursery school shall, within 30 school days, present written evidence to the school, day care center or nursery school of having completed the first immunization for each vaccine required for the student's grade and being on schedule for the remainder of the basic and recall (booster) immunization series for the diseases identified in par-(4) mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis, tetanus and other diseases that the department specifies by rule or shall present a written waiver under par-(4) sub. (3).

(3) The immunization requirement is waived if the student, if an adult, or the student's parent, guardian

or legal custodian submits a written statement to the school, day care center or nursery school objecting to the immunization for reasons of health, religion or personal conviction. At the time any school, day care center or nursery school notifies a student, parent, guardian or legal custodian of the immunization requirements, it shall inform the person in writing of the person's right to a waiver under this paragraph subsection.

(5) (a) By the 15th and the 25th school day after the student is admitted to a school, day care center or nursery school, the school, day care center or nursery school shall notify in writing any adult student or the parent, guardian or legal custodian of any minor student who has not met the immunization or waiver requirements of this subsection section. The notices shall cite the terms of those requirements and shall state that court action and forfeiture penalty could result due to noncompliance. The notices shall also explain the reasons for the immunization requirements and include information on how and where to obtain the required immunizations.

(b) 1. A school, day care center or nursery school may exclude from the school, day care center or nursery school any student who fails to satisfy the requirements of par-(b) sub. (2).

2. Beginning on July 1, 1993, if the department determines that fewer than 98% of the students in a day care center, nursery school or school district who are subject to the requirements of par-(b) sub. (2) have complied with par-(b) sub. (2), the day care center or nursery school shall exclude any child who fails to satisfy the requirements of par-(b) sub. (2) and the school district shall exclude any student enrolled in grades kindergarten to 6 who fails to satisfy the requirements of par-(b) sub. (2).

3. Beginning on July 1, 1995, if the department determines that fewer than 99% of the students in a day care center, nursery school or school district who are subject to the requirements of par-(b) sub. (2) have complied with par-(b) sub. (2), the day care center or nursery school shall exclude any child who fails to satisfy the requirements of par-(b) sub. (2) and the school district shall exclude any student enrolled in grades kindergarten to 6 who fails to satisfy the requirements of par-(b) sub. (2).

4. No student may be excluded from public school under this subdivision paragraph for more than 10 consecutive school days unless, prior to the 11th consecutive school day of exclusion, the school board provides the student and the student's parent, guardian or legal custodian with an additional notice, a hearing and the opportunity to appeal the exclusion, as provided under s. 120.13 (1) (c).

(6) The school, day care center or nursery school shall notify the district attorney of the county in which the student resides of any minor student who fails to present written evidence of completed immunizations

7. Town boards of health under section 141.01 (9m), 1991 stats.

(d) All of the following who are serving in the capacity of health officers, local health officers, county health officers or commissioners of health on the effective date of this paragraph shall continue in service as local health officers appointed under section 251.06 (4) of the statutes, as created by this act, unless the health officer, local health officer, county health officer or commissioner of health fails to meet the appropriate qualifications specified for a local health officer of a local health department that is established in the identical jurisdictional area under chapter 251 of the statutes, as created by this act:

1. Health officers appointed under section 140.09 (4) (a) or (b) 1, 1991 stats.

2. Local health officers designated under section 141.01 (1m) or (3) (a) 1, 1991 stats.

3. County health officers designated under section 141.01 (1r), 1991 stats.

4. Local health officers appointed under section 141.01 (3) (a) 2, 1991 stats.

5. Health officers elected under s. 141.015 (4) and (13), 1991 stats., by members of a city board of health or, in a county with a population of 500,000 or more, by a village board of health.

6. Health officers appointed for a city under section 141.015 (13m) or 141.02 (2) or (2m), 1991 stats.

7. A commissioner of health appointed under sections 66.146 and 141.02 (5), 1991 stats.

8. Town health officers elected under section 141.01 (9m), 1991 stats.

9. Health officers appointed for a village under section 141.015 (13m), 1991 stats.

(e) All of the following who are serving in the capacity of appointed or elected health officers on the effective date of this paragraph shall terminate service on that effective date:

1. Health officers elected under section 141.01 (9), 1991 stats.

2. Health officers elected under section 141.015 (4) and (13), 1991 stats., by a village board of health in a county with a population of less than 500,000.

(f) All property, furniture, equipment, supplies, records and staff member positions for a county, city-county or multiple county health department, county health commission or county health committee and, in a county with a population of 500,000 or more, a city or village board of health, or a city or village health department, established under chapters 140 and 141, 1991 stats., or a town board of health under section 141.01 (9m), 1991 stats., or a village board of health

under section 141.015 (1), 1991 stats., that is located in a county that is specified under section 251.02 (3m) of the statutes, as created by this act, are those of a local health department that is established in the identical jurisdictional area, under chapter 251 of the statutes, as affected by this act. No right, privilege or benefit to which the staff members, as staff employees of the village, city, county, city-county or multiple county health department, county health commission, county health committee or city, village or town board of health, were entitled may be denied or abridged solely because of the transfer of their positions to the local health department.

(g) All orders or regulations of a county, city-county or multiple county health department, county health commission or county health committee or, in a county with a population of 500,000 or more, a city or village health department or a city or village board of health established under chapters 140 and 141, 1991 stats., or a town board of health under section 141.01 (9m), 1991 stats., or a village board of health under section 141.015 (1), 1991 stats., that is located in a county that is specified under section 251.02 (3m) of the statutes, as created by this act, in effect on the date immediately prior to the effective date of this paragraph, are orders of a local health department that is established in the identical jurisdictional area, under chapter 251 of the statutes, as affected by this act, until modified or rescinded by the local health department.

(h) All administrative actions or proceedings by or against a county, city-county or multiple-county health department, county health commission or county health committee or, in a county with a population of 500,000 or more, a city or village health department or a city or village board of health, or a town board of health under section 141.01 (9m), 1991 stats., or a village board of health under section 141.015 (1), 1991 stats., that is located in a county that is specified under section 251.02 (3m) of the statutes, as created by this act, pending on the date immediately prior to the effective date of this paragraph shall be treated as actions or proceedings by or against a local health department that is established in the identical jurisdictional area under chapter 251 of the statutes, as affected by this act.

**SECTION 506. Effective dates.** This act takes effect on January 1 of the year following publication, except as follows:

(1) The treatment of sections 251.20, 254.28 (2) and 254.62 (2) of the statutes takes effect on the day after publication.



1993 1993 a. 27 s 470; (Effective January 1, 1994)

- 491 -

93 WisAct 26

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 101.63 (7) of the statutes is amended to read:

101.63 (7) Prescribe and furnish to municipalities a standard building permit form for all new one- and 2-family dwellings. The standard permit form shall include a space in which the municipal authority issuing the permit shall insert the name and license

number of the master plumber engaged in supervising the installation of plumbing or installing the plumbing at a new one- or 2-family dwelling.

SECTION 2. **Initial applicability.** This act first applies to building permits issued on the effective date of this SECTION.

SECTION 3. **Effective date.** This act takes effect on the first day of the 7th month beginning after publication.

1993 Assembly Bill 585

Date of enactment: August 20, 1993  
Date of publication: September 3, 1993

## 1993 Wisconsin Act 27

AN ACT to repeal 50.83, 51.44 (1) (d), ch. 140 (title), 140.03 (1) (c), 140.05 (2), 140.05 (5), 140.05 (12), 140.055 (title) and (3), 140.06 (1) (intro.), 140.08, 140.09 (title), 140.09 (1) (c), 140.09 (2), 140.09 (3), 140.09 (4) (title), 140.09 (4) (a), 140.09 (4) (b) 2, 140.09 (5), 140.09 (6) (title), 140.09 (7) (title), 140.09 (8), 140.09 (10), 140.09 (12), 140.09 (16), 140.50, 140.52 (intro.), 140.65, 140.82 (title), 140.82 (1) (a) to (L), (2) and (3), 140.85 (1) (a), 141.01 (title) (1), (1m), (1r) and (2), 141.01 (3) (a) 2, 141.01 (3) (b) and (4), 141.01 (6) (intro.), (a) and (b), 141.01 (6) (d) to (g), 141.01 (7) to (11), 141.015, 141.02, 141.045 (4), 141.05, 141.07, 141.10, 143.01 (1m), 143.04 (8), 143.14, 143.16, 143.17, 146.023 (title) and (1), 146.024 (1) (b), 146.024 (1) (c) and (f), 146.025 (1) (b) and (c), 146.025 (1) (ed), 146.028 (1) (f), 146.03, 146.04, 146.06, 146.07, 146.09, 146.13, 146.14 (title), 146.14 (3), 146.145 (1), 146.18 (title), 146.88 (1) (c) and (d), 146.882 (1) (b) and (c), ch. 149 (title), 149.04 (title), 149.04 (5) (a), 149.04 (6), 149.06 (2), 149.06 (4), 149.07 (3), 149.08 (title), 150.39 (9), ch. 151 (title) and 151.01 (1); to renumber 46.63, 50.52, 50.56, 50.58, 50.60, 50.61, 50.71, 50.84, 140.03 (title), 140.03 (1) (b) 3 to 5, 140.05 (18), 140.051, 140.053, 140.06 (title), 140.06 (1) (a) to (d), 140.06 (1) (e), 140.06 (1) (f) and (g), 140.06 (2) to (11), 140.42, 140.51, 140.52 (3) to (12), 140.61, 140.69, 140.71, 140.72, 140.73, 140.75, 140.81, 140.85 (title), 140.85 (2) and (3), 140.87, ch. 141 (title), 141.045 (title), 141.045 (6), ch. 143 (title), 143.01 (intro.), 143.01 (2), 143.03, 143.04 (title), 143.04 (2) to (4), 143.04 (7), 143.04 (11), 143.10, 143.12, 143.15, 146.015, 146.02, 146.021, 146.022 (title), 146.022 (1) (intro.), 146.022 (1) (a) and (b), 146.022 (1) (c) and (d), 146.022 (1) (dm), 146.024 (title) and (1) (intro.), (ad) and (am), 146.024 (1) (ar), 146.025 (title) and (1) (intro.) and (ad) to (ar), 146.025 (1) (eb), 146.025 (1) (eg) and (em), 146.025 (1) (fg), 146.025 (1) (fm), 146.025 (1) (g), 146.026, 146.027, 146.028 (title) and (1) (intro.) and (a) to (e), 146.08, 146.145 (title), 146.145 (2), (2m), (3) and (4), 146.185, 146.75, 146.78, 146.88 (title) and (1) (intro.), (a) and (b), 146.88 (1) (c), 146.88 (2) to (6), 146.882 (1) (d), 146.882 (2) to (6), 149.06 (title), 149.06 (3), 149.06 (5), 149.06 (9) and (10), 149.07 (1) (intro.), 151.01 (2) and (2m), 151.03, 151.07 and 151.12 (intro.); to renumber and amend 46.73, 46.79, 50.50, 50.505, 50.51, 50.515, 50.518, 50.53, 50.535, 50.54, 50.545, 50.55, 50.57, 50.575, 50.59, 50.70, 50.80, 50.81, 50.82, 50.85, 97.41 (1), 140.01 (intro.), (1) and (2), 140.02, 140.03 (1) (b) 1 and 2, 140.03 (3) and (5), 140.05 (title), 140.05 (1), 140.05 (3), 140.05 (4), 140.05 (9), 140.05 (14), 140.05 (14m), 140.05 (15), 140.05 (16) (a), (b), (c), (cm), (d), (dm), (e), (f), (fm), (g) and (h), 140.05 (17), 140.09 (1) (intro.), 140.09 (1) (a) and (b), 140.09 (4) (b) 1, 140.09 (6), 140.09 (7), 140.09 (9), 140.09 (11), 140.09 (13), 140.09 (14) (title), 140.09 (14), 140.09 (15), 140.09 (17), 140.10, 140.45, 140.53, 140.54, 140.56, 140.58, 140.59, 140.595, 140.60, 140.66, 140.67, 140.70, 140.74, 140.76, 140.77, 140.82 (1) (intro.), 140.84, 140.86, 141.01 (3) (a) 1, 141.01 (5), 141.01 (6) (c), 141.04, 141.045 (1) and (3), 141.15, 143.02, 143.04 (1), 143.04 (5), 143.04 (6), 143.04 (9), 143.05, 143.06, 143.07, 143.08, 143.11, 146.01, 146.022 (1) (e), (2) and (3), 146.023 (1m) to (5), 146.024 (1) (c) and (d), 146.024 (2) to (4), 146.025 (1) (cm) to (e), 146.025 (1) (f), 146.025 (2) to (9), 146.027, 146.0275, 146.028 (1) (g) and (2) to (8), 146.05, 146.10, 146.125, 146.14 (1) and (2), 146.14 (4) to (6), 146.18 (1), 146.18 (2), 146.18 (3), 146.24, 146.80, 146.882 (title) and (1) (intro.) and (a), 146.882 (1) (c), 149.01, 149.02, 149.03, 149.04 (4), 149.04 (5) (intro.), 149.04 (5) (b), 149.06 (1), 149.06 (6), 149.06 (7), 149.07 (title), 149.07 (1) (a) to (d) and (2), 149.08, 151.01 (intro.), 151.01 (3), 151.01 (4), 151.01 (5), 151.05, 151.09 (intro.) and (1) to (6), 151.11, 151.12 (1), 151.13 and 823.22; to consolidate, renumber and amend 140.03 (1) (intro.) and (b) (intro.), 140.055 (1) and (2), 140.85 (1) (intro.) and (b) and 151.09 (7) (intro.) and (am); to amend 13.94 (1) (dg), 14.245 (1) (d), 15.197 (21) (e), 15.197 (21) (f), 15.915 (2) (b), 16.366 (2) (e), 19.21 (5) (d) 2, 20.435 (1) (ak), 20.435 (1) (am), 20.435 (1)

a. Three years of experience in a full-time administrative position in either a public health agency or public health work.

b. Eligibility for certification by the American board of preventive medicine in public health or general preventive medicine.

c. A master's degree in public health, public administration, health administration or, as defined in rules promulgated by the department, a similar field.

(1m) Notwithstanding sub. (1), in a county with a county department under s. 46.23, the local health officer need not meet the requirements under sub. (1) if that county department employs at least one person who meets the requirements under sub. (1).

(2)(a) Except as provided in par. (b), a local health officer shall be a full-time employee of a local health department.

(b) A local health officer of a county health department in a county under s. 251.02 (3m) shall be a full-time employee of the county who meets the qualifications of a local health officer of a Level I local health department.

(3) A local health officer shall:

(a) Administer the local health department in accordance with state statutes and rules.

(b) Enforce state public health statutes and rules.

(c) Enforce any regulations that the local board of health adopts and any ordinances that the relevant governing body enacts, if those regulations and ordinances are consistent with state public health statutes and rules.

(d) Administer all funds received by the local health department for public health programs.

(e) Appoint all necessary subordinate personnel, assure that they meet appropriate qualifications and have supervisory power over all subordinate personnel. Any public health nurses and sanitarians hired for the local health department shall meet any qualification requirements established in rules promulgated by the department.

(f) Investigate and supervise the sanitary conditions of all premises within the jurisdictional area of the local health department.

(g) Have access to vital records and vital statistics from the register of deeds, as specified in ch. 69.

(4)(a) Except as provided in pars. (b) and (c), a local health officer shall be appointed in the same manner as are members of a local board of health under s. 251.03 (2).

(c) A local health officer of a village or town health department established under s. 251.02 (3m) shall be appointed by the local board of health.

SECTION 466. 251.10 of the statutes is created to read:

**251.10 County health department, how financed.** The county board shall appropriate funds for the operation of a single county health department that is established under s. 251.02 (1) and determine compen-

sation of county health department employees. The local board of health shall annually prepare a budget of the proposed expenditures of the county health department for the ensuing fiscal year.

SECTION 467. 251.12 of the statutes is created to read:

**251.12 City health department, how financed.** The common council shall appropriate funds for the operation of a city health department that is established as specified in s. 251.02 (1) and (2).

SECTION 468. 251.125 of the statutes is created to read:

**251.125 Village health department, how financed.** If a village health department is established under s. 251.02 (2) or (3m), the village board shall appropriate funds for the operation of the department.

SECTION 468m. 251.127 of the statutes is created to read:

**251.127 Town health department, how financed.** If a town health department is established under s. 251.02 (3m), the town board shall appropriate funds for the operation of the department.

SECTION 469. 251.20 of the statutes is created to read:

**251.20 Rule making.** The department shall promulgate rules that specify all of the following:

(1) Required services for each of Levels I, II and III local health departments under s. 251.05 (2).

(2) Additional required services for Level II local health departments under s. 251.05 (2) (b), including services that address at least one of the objectives from each section of healthier people in Wisconsin: a public health agenda for the year 2,000, published by the department in February 1990. The initial rules concerning these services shall correspond to the objectives set forth in each section of that document.

(3) Additional required services for Level III local health departments under s. 251.05 (2) (c), including services that address at least 3 of the objectives from each section of healthier people in Wisconsin: a public health agenda for the year 2,000, published by the department in February 1990. The initial rules concerning these services shall correspond to the objectives set forth in each section of that document.

SECTION 470. 252.04 (title) of the statutes is created to read:

**252.04 (title) Immunization program.**

SECTION 471. 252.05 (8) of the statutes is created to read:

252.05 (8) The department shall print and distribute, without charge, to all local health departments and, upon request, to health care providers and facilities a chart that provides information about communicable diseases.

SECTION 472. 252.07 (2) of the statutes is created to read:

252.07 (2) The department shall identify groups at risk for contracting or transmitting mycobacterium

7. Town boards of health under section 141.01 (9m), 1991 stats.

(d) All of the following who are serving in the capacity of health officers, local health officers, county health officers or commissioners of health on the effective date of this paragraph shall continue in service as local health officers appointed under section 251.06 (4) of the statutes, as created by this act, unless the health officer, local health officer, county health officer or commissioner of health fails to meet the appropriate qualifications specified for a local health officer of a local health department that is established in the identical jurisdictional area under chapter 251 of the statutes, as created by this act:

1. Health officers appointed under section 140.09 (4) (a) or (b) 1, 1991 stats.

2. Local health officers designated under section 141.01 (1m) or (3) (a) 1, 1991 stats.

3. County health officers designated under section 141.01 (1r), 1991 stats.

4. Local health officers appointed under section 141.01 (3) (a) 2, 1991 stats.

5. Health officers elected under s. 141.015 (4) and (13), 1991 stats., by members of a city board of health or, in a county with a population of 500,000 or more, by a village board of health.

6. Health officers appointed for a city under section 141.015 (13m) or 141.02 (2) or (2m), 1991 stats.

7. A commissioner of health appointed under sections 66.146 and 141.02 (5), 1991 stats.

8. Town health officers elected under section 141.01 (9m), 1991 stats.

9. Health officers appointed for a village under section 141.015 (13m), 1991 stats.

(e) All of the following who are serving in the capacity of appointed or elected health officers on the effective date of this paragraph shall terminate service on that effective date:

1. Health officers elected under section 141.01 (9), 1991 stats.

2. Health officers elected under section 141.015 (4) and (13), 1991 stats., by a village board of health in a county with a population of less than 500,000.

(f) All property, furniture, equipment, supplies, records and staff member positions for a county, city-county or multiple county health department, county health commission or county health committee and, in a county with a population of 500,000 or more, a city or village board of health, or a city or village health department, established under chapters 140 and 141, 1991 stats., or a town board of health under section 141.01 (9m), 1991 stats., or a village board of health

under section 141.015 (1), 1991 stats., that is located in a county that is specified under section 251.02 (3m) of the statutes, as created by this act, are those of a local health department that is established in the identical jurisdictional area, under chapter 251 of the statutes, as affected by this act. No right, privilege or benefit to which the staff members, as staff employees of the village, city, county, city-county or multiple county health department, county health commission, county health committee or city, village or town board of health, were entitled may be denied or abridged solely because of the transfer of their positions to the local health department.

(g) All orders or regulations of a county, city-county or multiple county health department, county health commission or county health committee or, in a county with a population of 500,000 or more, a city or village health department or a city or village board of health established under chapters 140 and 141, 1991 stats., or a town board of health under section 141.01 (9m), 1991 stats., or a village board of health under section 141.015 (1), 1991 stats., that is located in a county that is specified under section 251.02 (3m) of the statutes, as created by this act, in effect on the date immediately prior to the effective date of this paragraph, are orders of a local health department that is established in the identical jurisdictional area, under chapter 251 of the statutes, as affected by this act, until modified or rescinded by the local health department.

(h) All administrative actions or proceedings by or against a county, city-county or multiple-county health department, county health commission or county health committee or, in a county with a population of 500,000 or more, a city or village health department or a city or village board of health, or a town board of health under section 141.01 (9m), 1991 stats., or a village board of health under section 141.015 (1), 1991 stats., that is located in a county that is specified under section 251.02 (3m) of the statutes, as created by this act, pending on the date immediately prior to the effective date of this paragraph shall be treated as actions or proceedings by or against a local health department that is established in the identical jurisdictional area under chapter 251 of the statutes, as affected by this act.

**SECTION 506. Effective dates.** This act takes effect on January 1 of the year following publication, except as follows:

(1) The treatment of sections 251.20, 254.28 (2) and 254.62 (2) of the statutes takes effect on the day after publication.



1995 1995 a. 32, 77, 222; (section 6) (Enacted August 9, 1995)

- 913 -

1995 WISCONSIN ACT 31

a directional arrow would likely direct approaching traffic into a lane of traffic moving in the opposite direction, only the flashing warning lamps that exhibit the horizon-

tal bar of a directional arrow may be used and such lamps shall be flashing simultaneously.

1995 Assembly Bill 116

Date of enactment: August 9, 1995

Date of publication: August 23, 1995

## 1995 WISCONSIN ACT 32

**AN ACT** to amend 119.25 (2), 120.13 (1) (b), 120.13 (1) (c), 120.13 (1) (e) 1. (intro.) and 2. and 252.04 (5) (b) 4.; and to create 120.13 (1) (c) 2. of the statutes; relating to reasons for pupil expulsions.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 119.25 (2) of the statutes is amended to read:

119.25 (2) During any school year in which a resolution adopted under sub. (1) is effective, the independent hearing officer or independent hearing panel appointed by the board may expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1) (c) 1. or 2. No administrator may be designated to participate in an expulsion hearing if he or she was involved in the incident that led to the expulsion proceeding. Prior to such expulsion, the hearing officer or panel shall hold a hearing. Not less than 5 days' written notice of the hearing shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian, specifying the particulars of the alleged conduct, stating the time and place of the hearing and stating that the hearing may result in the pupil's expulsion. This section shall be printed in full on the face or back of the notice. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing officer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. A school board, hearing officer or panel may

disclose the transcript to the parent or guardian of an adult pupil, if the adult pupil is a dependent of his or her parent or guardian under section 152 of the internal revenue code. Within 30 days after the date on which the order is issued, the board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the board's decision to the state superintendent. If the board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court for the county in which the school is located.

**SECTION 2.** 120.13 (1) (b) of the statutes is amended to read:

120.13 (1) (b) The school district administrator or any principal or teacher designated by the school district administrator also may make rules, with the consent of the school board, and may suspend a pupil for not more than 3 school days or, if a notice of expulsion hearing has been sent under par. (c) 2. or (e) or s. 119.25, for not more than a total of 15 consecutive school days for noncompliance with such rules or school board rules, or for knowingly conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives, or for conduct by the pupil while at school or while under the supervision of a school authority which endangers the property, health or safety of others, or for conduct while not at school or while not under the supervision of a school authority which endangers the proper-

ty, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled. Prior to any suspension, the pupil shall be advised of the reason for the proposed suspension. The pupil may be suspended if it is determined that the pupil is guilty of non-compliance with such rule, or of the conduct charged, and that the pupil's suspension is reasonably justified. The parent or guardian of a suspended minor pupil shall be given prompt notice of the suspension and the reason for the suspension. The suspended pupil or the pupil's parent or guardian may, within 5 school days following the commencement of the suspension, have a conference with the school district administrator or his or her designee who shall be someone other than a principal, administrator or teacher in the suspended pupil's school. If the school district administrator or his or her designee finds that the pupil was suspended unfairly or unjustly, or that the suspension was inappropriate, given the nature of the alleged offense, or that the pupil suffered undue consequences or penalties as a result of the suspension, reference to the suspension on the pupil's school record shall be expunged. Such finding shall be made within 15 days of the conference. A pupil suspended under this paragraph shall not be denied the opportunity to take any quarterly, semester or grading period examinations or to complete course work missed during the suspension period, as provided in the attendance policy established under s. 118.16 (4) (a).

**SECTION 3.** 120.13 (1) (c) of the statutes is amended to read:

120.13 (1) (c) 1. The school board may expel a pupil from school whenever it finds the pupil guilty of repeated refusal or neglect to obey the rules, or finds that a pupil knowingly conveyed or caused to be conveyed any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives, or finds that the pupil engaged in conduct while at school or while under the supervision of a school authority which endangered the property, health or safety of others, or finds that a pupil while not at school or while not under the supervision of a school authority engaged in conduct which endangered the property, health or safety of others at school or under the supervision of a school authority or endangered the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled, and is satisfied that the interest of the school demands the pupil's expulsion.

3. Prior to such expulsion expelling a pupil, the school board shall hold a hearing. Not less than 5 days' written notice of the hearing shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian, specifying the particulars of the alleged refusal, neglect or conduct, stating the time and place of the hearing and

stating that the hearing may result in the pupil's expulsion. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel. The school board shall keep written minutes of the hearing. Upon the ordering by the school board of the expulsion of a pupil, the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the expulsion to the state superintendent. If the school board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located. This paragraph shall be printed in full on the face or back of the notice.

**SECTION 4.** 120.13 (1) (c) 2. of the statutes is created to read:

120.13 (1) (c) 2. In addition to the grounds for expulsion under subd. 1., the school board may expel from school a pupil who is at least 16 years old if the school board finds that the pupil repeatedly engaged in conduct while at school or while under the supervision of a school authority that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an activity supervised by a school authority and that such conduct does not constitute grounds for expulsion under subd. 1., and is satisfied that the interest of the school demands the pupil's expulsion.

**SECTION 5.** 120.13 (1) (e) 1. (intro.) and 2. of the statutes are amended to read:

120.13 (1) (e) 1. (intro.) The school board may adopt a resolution, which is effective only during the school year in which it is adopted, authorizing any of the following to determine pupil expulsion from school under subd. 2. instead of using the procedure under par. (c) 3.:

2. During any school year in which a resolution adopted under subd. 1 is effective, the independent hearing officer or independent hearing panel appointed by the school board may expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under par. (c) 1. or 2. Prior to such expulsion, the hearing officer or panel shall hold a hearing. Not less than 5 days' written notice of the hearing shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian, specifying the particulars of the alleged conduct, stating the time and place of the hearing and stating that the hearing may result in the pupil's expulsion. This paragraph

shall be printed in full on the face or back of the notice. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing officer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. Within 30 days after the date on which the order is issued, the school board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the school board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal

the school board's decision to the state superintendent. If the school board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located. This paragraph does not apply to a school district operating under ch. 119.

SECTION 6. 252.04 (5) (b) 4. of the statutes is amended to read:

252.04 (5) (b) 4. No student may be excluded from public school under this paragraph for more than 10 consecutive school days unless, prior to the 11th consecutive school day of exclusion, the school board provides the student and the student's parent, guardian or legal custodian with an additional notice, a hearing and the opportunity to appeal the exclusion, as provided under s. 120.13 (1) (c) 3.

1995 Assembly Bill 117

Date of enactment: August 9, 1995

Date of publication: August 23, 1995

## 1995 WISCONSIN ACT 33

AN ACT to amend 120.13 (1) (b) of the statutes; relating to: pupil suspensions.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 120.13 (1) (b) of the statutes is amended to read:

120.13 (1) (b) The school district administrator or any principal or teacher designated by the school district administrator also may make rules, with the consent of the school board, and may suspend a pupil for not more than 3 ½ school days or, if a notice of expulsion hearing has been sent under par. (c) or (e) or s. 119.25, for not more than a total of 15 consecutive school days for non-compliance with such rules or school board rules, or for knowingly conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives, or for conduct by the pupil while at school or while under the supervision of a school authority which endangers the property, health or safety of others, or for conduct while not at school or while not under the super-

vision of a school authority which endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled. Prior to any suspension, the pupil shall be advised of the reason for the proposed suspension. The pupil may be suspended if it is determined that the pupil is guilty of non-compliance with such rule, or of the conduct charged, and that the pupil's suspension is reasonably justified. The parent or guardian of a suspended minor pupil shall be given prompt notice of the suspension and the reason for the suspension. The suspended pupil or the pupil's parent or guardian may, within 5 school days following the commencement of the suspension, have a conference with the school district administrator or his or her designee who shall be someone other than a principal, administrator or teacher in the suspended pupil's school. If the school district administrator or his or her designee finds that the pupil was suspended unfairly or unjustly, or that the suspen-

**2009 2009 a. 185. (s 151-158) (Enacted March 15, 2010)**

2009 WISCONSIN ACT 183

- 1288 -

relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109-135, P.L. 109-151, P.L. 109-222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109-222, P.L. 109-227, P.L. 109-280, excluding sections 811 and 844 of P.L. 109-280, and P.L. 110-458, except that "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code. The

Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2008, do not apply to this paragraph with respect to taxable years beginning after December 31, 2008.

NOTE: See the note to SECTION 1 of this bill.

2009 Senate Bill 467

Date of enactment: **March 15, 2010**Date of publication: **March 29, 2010****2009 WISCONSIN ACT 184**

**AN ACT** to renumber 968.01 (1); to amend 968.01 (2); and to create 968.01 (1) (intro.), 968.01 (1) (a), 968.01 (1) (b) and 968.01 (4) of the statutes; relating to: using an electronic signature on a criminal complaint.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 968.01 (1) (intro.) of the statutes is created to read:

968.01 (1) (intro.) In this section:

SECTION 2. 968.01 (1) of the statutes is renumbered 968.01 (1) (c).

SECTION 3. 968.01 (1) (a) of the statutes is created to read:

968.01 (1) (a) "Electronic" has the meaning given in s. 137.11 (5).

SECTION 4. 968.01 (1) (b) of the statutes is created to read:

968.01 (1) (b) "Electronic signature" has the meaning given in s. 801.17 (1) (e).

SECTION 5. 968.01 (2) of the statutes is amended to read:

968.01 (2) The complaint is a written statement of the essential facts constituting the offense charged. A person may make a complaint on information and belief. Except as provided in sub. (3) or (4), the complaint shall be made upon oath before a district attorney or judge as provided in this chapter.

SECTION 6. 968.01 (4) of the statutes is created to read:

968.01 (4) A person may comply with sub. (2) if he or she makes the oath by telephone contact with the district attorney or judge and immediately thereafter electronically transmits the statement, accompanied by the person's electronic signature, to the district attorney or judge. If the complaint is filed, the electronically transmitted statement shall be incorporated into a criminal complaint filed in either an electronic or paper format under s. 968.02 (2).

2009 Assembly Bill 485

Date of enactment: **March 15, 2010**Date of publication: **March 29, 2010****2009 WISCONSIN ACT 185**

**AN ACT** to repeal 48.982 (1) (c) and 48.983 (1) (g); to renumber 48.981 (1) (d) and 49.137 (1) (a); to renumber and amend 49.136 (1) (d), 49.136 (1) (e), 49.137 (1) (b), 49.137 (1) (d), 101.123 (1) (ad) and 253.15 (4); to amend 13.48 (2) (j), 13.83 (4) (a) 4., 16.85 (1), 20.437 (2) (jn), 36.25 (26), 48.195 (2) (a), 48.195 (2) (b), 48.195 (2) (c), 48.32 (1) (b) 1. c., 48.33 (4) (c), 48.335 (3g) (c), 48.345 (2m), 48.355 (2) (b) 6., 48.355 (2c) (a) 3. c., 48.356 (1), 48.365



programs for children. The school board may receive federal or state funds for this purpose. The school board may charge a fee for all or part of the cost of the service for participation in a day child care program established under this subsection. Costs associated with a day child care program under this subsection may not be included in shared costs under s. 121.07 (6). Day child care programs established under this subsection shall meet the standards for licensed day child care centers established by the department of children and families. If a school board proposes to contract for or renew a contract for the provision of a day child care program under this subsection or if on July 1, 1996, a school board is a party to a contract for the provision of a day child care program under this subsection, the school board shall refer the contractor or proposed contractor to the department of children and families for the criminal history and child abuse record search required under s. 48.685. Each school board shall provide the department of health services with information about each person who is denied a contract for a reason specified in s. 48.685 (4m) (a) 1. to 5.

**SECTION 147.** 120.13 (36) of the statutes is amended to read:

120.13 (36) **PREKINDERGARTEN AND KINDERGARTEN PROGRAM AGREEMENTS.** Enter into an agreement with a licensed public or private nonsectarian day child care center to lease space for prekindergarten or kindergarten programs offered by the school district or to place school district employees in day child care centers to provide instruction in prekindergarten or kindergarten programs offered by the school district.

**SECTION 148.** 121.54 (2) (am) of the statutes is amended to read:

121.54 (2) (am) In lieu of transporting a pupil who is eligible for transportation under par. (a) to and from his or her residence, a school district may transport the pupil to or from, or both, a before- and after-school day child care program under s. 120.125, a day child care program under s. 120.13 (14), or any other day child care program, family day child care home, or child care provider.

**SECTION 149.** 121.545 (2) of the statutes is amended to read:

121.545 (2) A school board may provide transportation for children residing in the school district whom the school district is not required to transport under s. 121.54 to or from, or both, a before- and after-school day child care program under s. 120.125, a prekindergarten class under s. 120.13 (13), a day child care program under s. 120.13 (14), or any other day child care program, family day child care home, child care provider, or prekindergarten class. The school board may charge a fee for the cost of providing such transportation. The school board may waive the fee or any portion of the fee for any person who is unable to pay the fee. State aid shall not be provided for transportation under this subsection.

**SECTION 150.** 234.83 (3) (a) 2. of the statutes is amended to read:

234.83 (3) (a) 2. The start-up of a day child care business, including the purchase or improvement of land, buildings, machinery, equipment, or inventory.

**SECTION 151.** 252.04 (2) of the statutes is amended to read:

252.04 (2) Any student admitted to any elementary, middle, junior, or senior high school or into any day child care center or nursery school shall, within 30 school days after the date on which the student is admitted, present written evidence to the school, day child care center, or nursery school of having completed the first immunization for each vaccine required for the student's grade and being on schedule for the remainder of the basic and recall (booster) immunization series for mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis, tetanus, and other diseases that the department specifies by rule or shall present a written waiver under sub. (3).

**SECTION 152.** 252.04 (3) of the statutes is amended to read:

252.04 (3) The immunization requirement is waived if the student, if an adult, or the student's parent, guardian, or legal custodian submits a written statement to the school, day child care center, or nursery school objecting to the immunization for reasons of health, religion, or personal conviction. At the time any school, day child care center, or nursery school notifies a student, parent, guardian, or legal custodian of the immunization requirements, it shall inform the person in writing of the person's right to a waiver under this subsection.

**SECTION 153.** 252.04 (4) of the statutes is amended to read:

252.04 (4) The student, if an adult, or the student's parent, guardian, or legal custodian shall keep the school, day child care center, or nursery school informed of the student's compliance with the immunization schedule.

**SECTION 154.** 252.04 (5) (a) of the statutes is amended to read:

252.04 (5) (a) By the 15th and the 25th school day after the date on which the student is admitted to a school, day child care center, or nursery school, the school, day child care center, or nursery school shall notify in writing any adult student or the parent, guardian, or legal custodian of any minor student who has not met the immunization or waiver requirements of this section. The notices shall cite the terms of those requirements and shall state that court action and forfeiture penalty could result due to noncompliance. The notices shall also explain the reasons for the immunization requirements and include information on how and where to obtain the required immunizations.

**SECTION 155.** 252.04 (5) (b) 1. of the statutes is amended to read:



252.04 (5) (b) 1. A school, day child care center, or nursery school may exclude from the school, day child care center, or nursery school any student who fails to satisfy the requirements of sub. (2).

**SECTION 156.** 252.04 (5) (b) 2. of the statutes is amended to read:

252.04 (5) (b) 2. Beginning on July 1, 1993, if the department determines that fewer than 98% of the students in a day child care center, nursery school, or school district who are subject to the requirements of sub. (2) have complied with sub. (2), the day child care center or nursery school shall exclude any child who fails to satisfy the requirements of sub. (2) and the school district shall exclude any student enrolled in grades kindergarten to 6 who fails to satisfy the requirements of sub. (2).

**SECTION 157.** 252.04 (5) (b) 3. of the statutes is amended to read:

252.04 (5) (b) 3. Beginning on July 1, 1995, if the department determines that fewer than 99% of the students in a day child care center, nursery school, or school district who are subject to the requirements of sub. (2) have complied with sub. (2), the day child care center or nursery school shall exclude any child who fails to satisfy the requirements of sub. (2) and the school district shall exclude any student enrolled in grades kindergarten to 6 who fails to satisfy the requirements of sub. (2).

**SECTION 158.** 252.04 (6) of the statutes is amended to read:

252.04 (6) The school, day child care center, or nursery school shall notify the district attorney of the county in which the student resides of any minor student who fails to present written evidence of completed immunizations or a written waiver under sub. (3) within 60 school days after being admitted to the school, day child care center, or nursery school. The district attorney shall petition the court exercising jurisdiction under chs. 48 and 938 for an order directing that the student be in compliance with the requirements of this section. If the court grants the petition, the court may specify the date by which a written waiver shall be submitted under sub. (3) or may specify the terms of the immunization schedule. The court may require an adult student or the parent, guardian, or legal custodian of a minor student who refuses to submit a written waiver by the specified date or meet the terms of the immunization schedule to forfeit not more than \$25 per day of violation.

**SECTION 159.** 252.21 (1) of the statutes is amended to read:

252.21 (1) If a teacher, school nurse, or principal of any school or day child care center knows or suspects that a communicable disease is present in the school or center, he or she shall at once notify the local health officer.

**SECTION 160.** 253.15 (2) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

253.15 (2) **INFORMATIONAL MATERIALS.** The board shall purchase or prepare or arrange with a nonprofit

organization to prepare printed and audiovisual materials relating to shaken baby syndrome and impacted babies. The materials shall include information regarding the identification and prevention of shaken baby syndrome and impacted babies, the grave effects of shaking or throwing on an infant or young child, appropriate ways to manage crying, fussing, or other causes that can lead a person to shake or throw an infant or young child, and a discussion of ways to reduce the risks that can lead a person to shake or throw an infant or young child. The materials shall be prepared in English, Spanish, and other languages spoken by a significant number of state residents, as determined by the board. The board shall make those written and audiovisual materials available to all hospitals, maternity homes, and nurse-midwives licensed under s. 441.15 that are required to provide or make available materials to parents under sub. (3) (a) 1., to the department and to all county departments and nonprofit organizations that are required to provide the materials to day child care providers under sub. (4) (d), and to all school boards and nonprofit organizations that are permitted to provide the materials to pupils in one of grades 5 to 8 and in one of grades 10 to 12 under sub. (5). The board shall also make those written materials available to all county departments and Indian tribes that are providing home visitation services under s. 48.983 (4) (b) 1. and to all providers of prenatal, postpartum, and young child care coordination services under s. 49.45 (44). The board may make available the materials required under this subsection to be made available by making those materials available at no charge on the board's Internet site.

**SECTION 161.** 253.15 (4) (title) of the statutes is amended to read:

253.15 (4) (title) **TRAINING FOR DAY CHILD CARE PROVIDERS.**

**SECTION 162.** 253.15 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is renumbered 253.15 (4) (a) and amended to read:

253.15 (4) (a) Before an individual may obtain a license to operate a day child care center under s. 48.65 for the care and supervision of children under 5 years of age or enter into a contract to provide a day child care program under s. 120.13 (14) for the care and supervision of children under 5 years of age, the individual shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the department or that is provided by a nonprofit organization arranged by the department to provide that training.

(b) Before an individual may be certified under s. 48.651 as a day child care provider of children under 5 years of age, the individual shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the certifying department in a county having a population of 500,000 or more, county department, or agency contracted with under s. 48.651

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\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 2013 REGULAR  
SESSION OF THE LEGISLATURE \*\*\*

\*\*\* ANNOTATIONS CURRENT THROUGH APRIL 15, 2013 \*\*\*

Title 21 Education  
Chapter 4 Pupils  
Article 3. Right to Attend School

GO TO CODE OF WYOMING ARCHIVE DIRECTORY

Wyo. Stat. § 21-4-309 (2013)

§ 21-4-309. Mandatory immunizations for children attending schools; exceptions.

(a) Any person attending, full or part time, any public or private school, kindergarten through twelfth grade, shall within thirty (30) days after the date of school entry, provide to the appropriate school official written documentary proof of immunization. For purposes of this section, documentary proof of immunization is written certification by a private licensed physician or his representative or by any public health authority, that the person is fully immunized. Documentation shall include month, day and year of each required immunization received against vaccine preventable disease as designated by the state health authority. No school administrator shall permit a student to attend school for more than thirty (30) calendar days without documentary proof of immunization. If immunization requires a series of immunizations over a period of more than thirty (30) calendar days, the child shall be permitted to attend school while receiving continuing immunization if the school administrator receives written notification by a private licensed physician or his representative or by a public health official, specifying a written schedule for necessary immunization completion within the medically accepted time period. **Waivers shall be authorized by the state or county health officer upon submission of written evidence of religious objection or medical contraindication to the administration of any vaccine.** In the presence of an outbreak of vaccine preventable disease as determined by the state or county health authority, school children for whom a

waiver has been issued and who are not immunized against the occurring vaccine preventable disease shall be excluded from school attendance for a period of time determined by the state or county health authority, but not suspended from school as provided in W.S. 21-4-305. Children excluded from school attendance under this section shall not be counted in the aggregate number of pupils absent as defined in W.S. 21-13-101(a)(i).

(b) The school administrator shall be responsible for an audit of the immunization status of any child enrolled in the school in accordance with rules and regulations prescribed by the department of health.

(c) The written documented proof of immunization on a form provided by the state health officer shall be an integral part of the child's school record.

(d) For purposes of this section:

(i) "State health officer" means the person appointed by the director of the department of health pursuant to W.S. 9-2-103;

(ii) "County health officer" means the licensed medical officer designated by the county commissioners to serve as health officer for his county;

(iii) "Immunized" or "immunization" means initial immunization and any boosters or reimmunizations required to maintain immunization pursuant to the immunization standards and recommendations issued by the state health officer.

**HISTORY:** Laws 1979, ch. 23, § 1; 1987, ch. 3, § 1; 1991, ch. 30, § 2; ch. 221, § 1; 2004, ch. 130, § 1.

**NOTES:** The 2004 amendment, in (d)(i), substituted "9-2-103" for "9-2-101(f)."

Laws 2004, ch. 130, § 4, makes the act effective immediately upon completion of all acts necessary for a bill to become law as provided by art. 4, § 8, Wyo. Const. Approved March 19, 2004.

Conflicting legislation. --

Laws 2004, ch. 130, § 3, provides: "Any other act adopted by the Wyoming legislature during the same session in which this act is adopted shall be given precedence and shall prevail over the amendments in this act to the extent that such acts are in conflict with this act."

LexisNexis 50 State Surveys, Legislation & Regulations

### Childhood & Student Vaccinations

Waiver of immunization. --

The statute clearly requires a waiver to be issued upon receipt of written evidence of a medical contraindication to the administration of any vaccine, and the statute does not require that a specific reason be given for a medical contraindication. Jones v. State Dep't of Health, 2001 WY 28, 18 P.3d 1189, 2001 Wyo. LEXIS 35 (Wyo. 2001).

The statute mandates the issuance of an exemption from immunization for school children upon a written religious objection and does not permit an inquiry by the department of health into the sincerity of the religious beliefs of an applicant. LePage v. State, 2001 WY 26, 18 P.3d 1177, 2001 Wyo. LEXIS 34, 94 A.L.R.5th 777 (Wyo. 2001).

1991 1991, ch. 30, § 2; (approved February 14, 1991)

Ch. 30                      SESSION LAWS OF WYOMING, 1991                      112

(c) At the recommendation of the state librarian the department may dispose of unused materials, supplies or equipment belonging to the state library in any manner provided by law.

(d) The department in consultation with the board may promulgate necessary rules and regulations to effectuate the purposes of this section.

**9-2-1026.10. "State library agency".** As used in the Interstate Library Compact, "state library agency", with reference to this state, means the state library division of the department.

**Section 5.** W.S. 9-2-420 and 9-2-421 are renumbered as 9-2-1026.8 and 9-2-1026.9 and 9-2-423 through 9-2-425 are renumbered as 9-2-1026.11 through 9-2-1026.13.

**Section 6.** W.S. 9-2-403(a)(viii) and (x), 9-2-416, 9-2-1003(c)(ii) and 9-2-1023(a)(iii), (iv) and (vii) are repealed.

**Section 7.** This act is effective April 1, 1991.

Approved February 14, 1991.

## CHAPTER 30

### MANDATORY IMMUNIZATION OF SCHOOL CHILDREN

Original House Bill No. 37

AN ACT to amend W.S. 21-4-309 relating to mandatory immunizations for school children; modifying mandatory immunization requirements and specifying written documentary proof of immunization; providing and modifying definitions; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 21-4-309 is amended to read:

**21-4-309. Mandatory immunizations for children attending schools; exceptions.**

(a) Any person attending, full or part time, any public or private school, kindergarten through twelfth grade, shall within thirty (30) days after the date of school entry, provide to the appropriate school official written documentary proof of immunization. For purposes of this section, documentary proof of immunization is written certification by a private licensed physician or his representative or by any public health authority, that the person is fully immunized. Documentation shall include month, day and year of each required immunization received against vaccine preventable disease as designated by the state health authority. No school administrator shall permit a student to attend school for more than thirty (30) calendar days without documentary proof of immunization. If immunization

requires a series of immunizations over a period of more than thirty (30) calendar days, the child shall be permitted to attend school while receiving continuing immunization if the school administrator receives written notification by a private licensed physician or his representative or by a public health official, specifying a written schedule for necessary immunization completion within the medically accepted time period. Waivers shall be authorized by the state or county health officer upon submission of written evidence of religious objection or medical contraindication to the administration of any vaccine. In the presence of an outbreak of vaccine preventable disease as determined by the state or county health authority, school children for whom a waiver has been issued and who are not immunized against the occurring vaccine preventable disease shall be excluded from school attendance for a period of time determined by the state or county health authority, but not suspended from school as provided in W.S. 21-4-305. Children excluded from school attendance under this section shall not be counted in the aggregate number of pupils absent as defined in W.S. 21-13-101(a)(i).

(b) The school administrator shall be responsible for an audit of the immunization status of any child enrolled in the school in accordance with rules and regulations prescribed by the department of health.

(c) The written documented proof of immunization on a form provided by the state health officer shall be an integral part of the child's school record.

(d) For purposes of this section:

(i) "State health officer" means the director of the department of health;

(ii) "County health officer" means the licensed medical officer designated by the county commissioners to serve as health officer for his county;

(iii) "Immunized" or "immunization" means initial immunization and any boosters or reimmunizations required to maintain immunization pursuant to the immunization standards and recommendations issued by the state health officer.

**Section 2.** This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

Approved February 14, 1991.



1991 ch. 221, § 1; (Effective April 1, 1991)

Ch. 221

SESSION LAWS OF WYOMING, 1991

532

In case of sales of loans the nonprofit corporation shall as consideration for the sale retain the responsibility for collection and procedural processing of the loans at its sole expense with the exception of the servicing fees set forth in the standby commitment agreement. In no case shall the state administer loans purchased from the nonprofit Wyoming corporation. The portion of any payment reflecting a return of corpus shall be credited to the permanent mineral trust fund or permanent land fund and the balance of the payment shall be credited to the general fund or the permanent land income fund as applicable.

**Section 2.** This act is effective July 1, 1991.

Approved March 5, 1991.

## CHAPTER 221

### DEPARTMENT OF HEALTH

Original Senate File No. 242

AN ACT to amend W.S. 3-3-503(a)(iii) and (b)(ii), 7-20-105(a)(ii), 9-1-204(a)(i), 9-1-415(e) and (f)(B), 9-2-101(a), (b)(i) and by creating new subsections (c) through (f), 9-2-102(a) introductory paragraph, (b) and (d), 9-2-103(a) and by creating a new subsection (d), 9-2-104(a)(ii), 9-2-106(a)(vi) and (vii), 9-2-107(a) introductory paragraph, (b) introductory paragraph, (iv) and by creating a new paragraph (vi), 9-2-1204(a) introductory paragraph and (xiii), 9-2-1206(a) and (b), 9-2-1207(c), 9-2-1208(a), (c) introductory paragraph and by creating a new paragraph (iv), 9-2-1302(a)(ii) through (iv), 9-2-1303, 9-2-1304(a)(iv), 9-2-1305(c), 20-1-112(c), 20-6-106(g), 21-2-701(a)(i) and (iii), 21-2-703(b) introductory paragraph, 21-4-309(b) and (c), 25-1-104(b), 25-1-105(a)(i) and (iv), 25-1-106, 25-5-102(a)(vi)(E), (xii) and by creating new paragraphs (xiv) and (xv), 25-5-104, 25-5-105(a) introductory paragraph, 25-5-106, 25-5-107, 25-5-108, 25-5-117(d), 25-5-119(e), 25-5-124(b), 25-5-126(a) introductory paragraph, 25-5-131(b)(vi), 25-6-101(b), 25-8-102(a) introductory paragraph, 25-8-103, 25-8-104, 25-9-101(c), 25-9-102(a) introductory paragraph, 25-9-103, 25-9-104(a) introductory paragraph, 25-9-105, 25-9-106, 25-10-101(a)(iii), 25-10-105(a) introductory paragraph, 25-10-108(b), 25-10-112(b), (c) introductory paragraph and (i) and (d), 25-10-120(a), 25-10-125, 25-10-302, 25-10-304, 25-11-101(a)(i) and (vii), 25-11-102(a) and (b), 25-11-103(a) and (b), 25-11-105(b), 25-11-106, 25-11-108, 26-34-102(a)(i), 26-43-101(a)(viii), 27-3-102(a)(xiii), 27-14-103(b)(v), 31-6-105(a), 31-7-121(a), 33-7-108(a), 33-7-111, 33-7-310, 33-12-134(b), 33-16-101(b), 33-16-201(a), 33-22-102(a), 33-24-125(a)(iii), 33-24-127(a)(i), 33-24-128, 33-33-104(a)(iii), 33-34-101(a)(v), 33-36-102(a)(v), 35-1-101 through 35-1-103, 35-1-105(a)(iii), (iv) and (vi), 35-1-106, 35-1-220, 35-1-221(a) introductory paragraph and (ii), 35-1-222 through 35-1-227, 35-1-229, 35-1-240(a) introductory paragraph and (i), (iii), (xi), (xii), (xviii) and by creating a new paragraph (xix), 35-1-303(a), 35-1-306(a), 35-1-402, 35-1-403, 35-1-409(a), 35-1-421, 35-1-426(b), 35-1-427(c), 35-1-428, 35-1-502, 35-1-613(a)(iii), 35-1-620(a) introductory paragraph and (i), 35-1-621, 35-1-622(a) introductory paragraph and (b), 35-1-623(a)(i), 35-1-624(a) introductory paragraph, 35-1-701, 35-2-302(a)(i), 35-2-303(a) introductory paragraph, 35-2-304(a)(ii) and (iii), 35-2-341, 35-2-901(a)(vi) and (vii), 35-3-106, 35-4-101, 35-4-103, 35-4-104, 35-4-106, 35-4-107, 35-4-111, 35-4-130(a) and (b), 35-4-132(a) and (b), 35-4-133(d), 35-4-134(b)(iii), 35-4-138, 35-4-201, 35-4-202, 35-4-221(b), 35-4-222, 35-4-224, 35-4-301, 35-4-302, 35-4-402, 35-4-501, 35-4-601, 35-4-603 through 35-4-606, 35-4-801(a) and (b)(i), 35-4-802(a) introductory paragraph, 35-5-116, 35-6-101(a)(iv), 35-6-107(b), 35-6-108, 35-6-109, 35-7-523, 35-7-1005, 35-7-1101, 35-8-401(a)(iii), 35-8-403, 35-8-406, 35-12-110(b)(v), 35-15-103(a)(i), 35-15-104, 35-15-107(a)(ii)(H), (K) and (M), 35-15-108(a), 35-15-109 through 35-15-112, 35-20-102(a)(iii)

**9-2-1305. Investigations.**

(c) Any investigation that requires the inspection or obtaining of medical records or other records pertaining to residents from any long term care facility or government agency, shall be referred to the department and shall require the permission of the resident or his guardian, if any.

**20-1-112. Rubella and Rh test required; physician's certificate.**

(c) For purposes of this section, a "standard serological test" means a test for rubella immunity and Rh type approved by the department of health and made at a laboratory approved by the department to make the tests.

**20-6-106. Powers and duties of division regarding collection of support.**

(g) If a court orders support to be paid by an obligor, the division shall be subrogated to the debt created by the order. This subrogation interest shall apply to all orders of support including temporary spouse support orders, family maintenance and alimony orders to the extent of the amounts paid by the division in public assistance to or for the benefit of a dependent child and the amount of medical support provided by or through another division of the department of health or the department of family services.

**21-2-701. Definitions.**

(a) As used in this act:

(i) "Division" means a division or section as assigned responsibilities for programs of developmental disabilities, department of health;

(iii) "Regional developmental preschool system" means the regional developmental programs and the operating units or centers of those programs in this state which, through contracts with the division provide services to handicapped preschool children;

**21-2-703. Superintendent duties; division duties.**

(b) The division in carrying out its duties as an intermediate educational unit shall:

**21-4-309. Mandatory immunizations for children attending schools; exceptions.**

(b) The administrator of the school shall be responsible for an audit of the immunization status of any child enrolling in the school in accord with rules and regulations prescribed by the department of health. An immunization record, as prescribed by the state or county health officer, shall be an integral part of the child's school or child caring facility record.

(c) "State health officer" means for this section, the person appointed by the director of the department of health pursuant to W.S. 9-2-101(f).

**25-1-104. Duties of board; inspections of state institutions; regulation of prisoner-produced goods.**



treatment plan is established in writing, approved and periodically reviewed by a licensed physician. The department of health shall by rule and regulation or within the state plan for medical assistance and services, define those services qualifying as mental health services under this paragraph and, pursuant to W.S. 9-2-102, establish standards for certification under this paragraph;

**42-4-104. Powers and duties of department of health.**

(a) The department of health shall:

**42-5-101. Provision of information and services; refusal to accept.**

(a) The department of health may provide and pay for family planning and birth control information and services including interviews with trained personnel, distribution of literature, referral to a licensed physician for consultation, examination, tests, medical treatment and prescription and to the extent prescribed, the distribution of rhythm charts, drugs, medical preparation, contraceptive devices and similar products, to any person who may benefit from this information and these services. Information and services shall be provided in a language understood by the recipient.

**Section 3.** W.S. 9-2-101(d), 9-2-102(f) through (n), 9-2-103(c), 9-2-104(a)(i), 9-2-107(a)(i) through (iv), (b)(iii), (v) and (c), 9-2-1202, 9-2-1203, 9-2-1205, 9-2-1302(a)(i), 25-1-104(a)(ii) through (vi), 25-1-201(b)(i) and (iii), 25-11-101(a)(ii), 35-1-228 and 42-4-105 are repealed.

**Section 4.** This act is effective April 1, 1991.

Approved March 5, 1991.

## CHAPTER 222

### DEPARTMENT OF CORRECTIONS

Original Senate File No. 221

**NOTE:** W.S. 9-2-2009 renumbered in Statutes as W.S. 9-2-2012 due to numbering conflict with Chapter 253.

**AN ACT** to create W.S. 9-2-2009 relating to a department of corrections; creating a department of corrections as part of the reorganization of Wyoming state government; specifying department components; requiring the director to provide a reorganization plan to the legislature; requiring reports of a legislative committee; providing conforming limitations; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 9-2-2009 is created to read:

**9-2-2009.** Department of corrections created; director appointed; structure.

2004 2004, ch. 130, § 1.

Ch. 130

SESSION LAWS OF WYOMING, 2004

356

**Chapter 130****REVISOR'S BILL**

Original House Bill No. 109

AN ACT relating to a revision of inadvertent errors; correcting statutory references and language that were erroneously made to the statutes as a result of legislation previously adopted by the legislature; providing for application as specified; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 1-15-409(b), 1-20-109, 1-22-203(e), 1-40-203(b)(ii), (xiii) and (xvii), 1-42-113(a)(iv), 2-5-101(c), 2-6-109(a), 2-7-805(d) and (e), 2-15-104, 2-15-105(b), 3-5-213, 5-1-106(d) and (e), 5-3-104, 5-3-211, 5-9-135, 6-2-312(a)(intro), 6-3-401(a)(iii), 7-1-109(g)(ii), 7-2-105(e), 7-6-112(a)(ii), 7-11-403(a)(intro), 7-11-407, 7-15-102(a)(ii), 9-1-618(b)(ii), 9-2-1016(c)(i) and (v), 9-3-301(a)(ix), 9-4-210, 9-4-601(a)(vi), 9-4-604(k)(iii), 9-4-701(q)(intro) and (ii)(B), 9-4-1201(a)(xi), 11-2-204(a), 11-7-301(a)(v), 11-19-304, 11-20-101(a)(vii), 11-24-108(a), 13-6-304(a)(iii), 14-3-308(b), 14-4-113(a), 14-6-233(a), 14-6-301(a)(iii), 14-8-103(a)(intro), 15-1-103(a)(xxix)(C) and (xli), 15-1-108(a)(vi)(C), 15-1-701(a)(ii), 15-4-229, 15-4-244(b), 15-6-401, 15-6-433, 16-1-104(d), 16-2-101(a)(v), 16-3-101(b)(ix)(E) and (F), 16-4-103(b), 16-4-123(c), 16-6-501(b) and (d), 16-6-801(a)(ii), 16-6-803(b), 16-9-102(a)(x), 17-4-122(d), 17-4-124(b), 17-10-118, 17-10-122, 17-16-825(e)(ii), 17-16-1103(j), 17-16-1801(b), 17-17-114(c), 17-18-106(b)(intro), 17-18-116(f), 17-19-1630(a), 18-3-304, 18-3-402(a)(vi)(B) and (xxiv), 18-3-516(b)(i), 18-3-520, 18-3-812, 18-4-201(b)(iii), 18-4-501(a)(v), 18-5-203, 18-6-313, 18-8-106, 19-7-102(a)(intro), (ii) and (iii), 19-11-102(c), 20-4-140(a)(xxii), 20-4-153(a)(ii), 21-2-402(b)(x)(B), 21-2-702, 21-2-703(a)(iii), 21-4-309(d)(i), 21-6-202(a)(i), 21-12-101(a), 21-13-310(a)(ii)(B), 21-13-313(d), 21-13-326(a)(ii), 21-15-108(d)(ii), 21-15-109(e), 21-16-720(b), 21-17-417(a)(ii), 21-17-427(a)(xii), 25-5-102(a)(iv) and (xiii), 25-10-101(a)(xiv), 25-10-116(b), 25-11-101(a)(iv), 26-2-209, 26-3-114(a)(iii), 26-4-102(b)(i), 26-4-103(h), 26-4-105(a), 26-7-101, 26-14-102(a)(viii), 26-14-103(a)(xii), 26-17-127(a)(intro), 26-19-304(a)(ii), 26-29-238(b), 26-34-102(a)(xxix), 26-34-120(e)(ii), 26-34-127(a), 27-3-102(a)(xxii), 27-3-103(a)(viii), (ix) and (b), 27-3-105(a)(i), (ii), (b)(xi) and (xii), 27-3-317(g)(ii), 28-1-107(a)(i), 29-2-110(a), 29-3-109(a), 29-3-110, 29-6-206(a)(i) and (c), 29-7-103(a), 29-7-105(b)(intro), 30-2-210(a), 30-5-101(a)(i)(F) and (G), 30-5-103(b), 30-5-109(c)(iii), 30-5-110(b), (c)(ii), (iii) and (t), 30-5-126, 31-2-104(f), 31-2-107(a), 31-2-212, 31-2-504(c), 31-7-105(f)(iv), 31-18-806, 32-1-110, 33-1-106, 33-3-103, 33-3-124, 33-7-108(b), 33-7-209(a)(iii), 33-9-105, 33-9-107, 33-16-111, 33-16-207, 33-16-305, 33-16-317, 33-16-318, 33-21-145(b), 33-24-153(a), 33-26-103(a)(iii), 33-29-139(c)(intro), 33-29-148, 33-33-104(a)(intro) and (vii), 33-43-109, 34-1-118, 34-1-126, 34-16-105, 34.1-2-511(c), 34.1-2.A-307(b), 34.1-3-103(b), 34.1-3-503(a),

**21-2-703. Superintendent duties; division duties.**

(a) The state superintendent shall:

(iii) Insure that activities under this act comply with the Education of the Handicapped Act, ~~20 USC §§ 1401-1485~~ 20 U.S.C. §§ 1400 through 1485, as amended as of January 1, 1989.

**21-4-309. Mandatory immunizations for children attending schools; exceptions.**

(d) For purposes of this section:

(i) "State health officer" means the person appointed by the director of the department of health pursuant to W.S. ~~9-2-101(c)~~ 9-2-103;

**21-6-202. Definitions.**

(a) As used in this article:

(i) "School district" includes unified school districts and elementary school districts ~~authorized under W.S. 21-6-224 pursuant to W.S. 21-3-102~~;

**21-12-101. "State board" defined; boards of trustees authorized to establish and maintain adult education program.**

(a) As used in this ~~article~~ chapter "state board" means the state board of education acting as the state board of vocational education.

**21-13-310. Annual computation of district revenues.**

(a) To ensure revenues available to each district are uniformly sufficient to enable compliance with the uniform standards for educational programs prescribed under W.S. 21-9-101 and 21-9-102 and to secure state board accreditation of educational programs under W.S. 21-2-304(a)(ii), the revenues specified under this subsection shall be deemed state revenues and shall be considered in determining the amount to be distributed to each district under W.S. 21-13-311. A district shall make an annual computation of the following revenues:

(ii) The required local tax effort in the current school year for the assessment and levy of school taxes by the district according to the following schedule:

(B) Any nonunified district actually and physically operating a school within the boundaries of the district offering instruction in kindergarten through grade eight (8), the amount of revenue collections to be received during the school year under the number of mills levied pursuant to W.S. 21-13-102(a)(ii)(A), ~~and (C)~~, as certified on August 10 under W.S. 39-11-102.1(c)(v) for that school year.

**21-13-313. Distribution of funds from foundation account; property tax and cash reserve adjustment; regulations.**

(d) On or before August 15 of the succeeding fiscal year, each school district shall report the amount of revenue it received during the preceding fiscal year attributable to levies provided by W.S. 21-13-102(a)(i)(A) and (ii)(A) ~~and (C)~~ and 21-13-201 regardless of the

**Section 4.** This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

Approved March 19, 2004.

## Chapter 131

### APPROPRIATION FOR THE LEGISLATURE

Original Senate File No. 2

AN ACT relating to appropriations for the legislature; providing appropriations for the operation of the legislative branch of state government; and providing for effective dates.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** There is appropriated from the general fund to the legislative service office the following specified amounts, or as much thereof as may be necessary, to pay the costs and expenses of the Wyoming legislature through June 30, 2006:

<b>SALARIES</b>	
Permanent/Temporary . . . . .	\$4,562,858
Legislators – Session . . . . .	1,203,258
Legislators – Interim . . . . .	467,671
Session Staff . . . . .	726,520
Employer Paid Benefits . . . . .	1,669,433
<b>IN-STATE TRAVEL [1,](2.)</b>	
Mileage and Per Diem – Session . . . . .	827,200
Mileage and Per Diem – Interim . . . . .	749,680
<b>OUT-OF-STATE TRAVEL</b>	
Travel Expenses . . . . .	118,000
Per Diem . . . . .	124,380
<b>ANNUAL DUES (both FY 2005 and 2006)</b>	
National Conference of State Legislatures . . .	166,445
The Energy Council . . . . .	64,000
Council of State Governments . . . . .	128,950
CSG additional support . . . . .	100,000
<b>REGISTRATION FEES . . . . .</b>	<b>53,620</b>
<b>TELECOMMUNICATIONS AND POSTAGE . . . . .</b>	<b>180,000</b>
<b>GENERAL ADMINISTRATIVE SUPPORT [3.] . . . . .</b>	<b>847,450</b>
(Information technology, copying, supplies and equipment, furniture, contract services, special projects, etc.)	

### Appendix III:

#### LexisNexis 50 State Comparative Legislation / Regulation: Childhood & Student Vaccinations

STATE	CITATIONS
AL	<p><b>Statutes:</b>  <u>Code of Ala. §§ 16-30-1 through 16-30-5</u> Immunization of School Children  <u>Code of Ala. §§ 22-11B-1 through 22-11B-4</u> Exchange of Immunization Status Data</p> <p><b>Regulations:</b>  <u>Ala. Admin. Code r. 420-6-1-.01 through 420-6-2-.08</u> Immunization of School Children; Exchange of Immunization Information and Operation of the Immunization Registry</p>
AK	<p><b>Statutes:</b>  <u>Alaska Stat. § 14.30.125</u> [Pupils and Educational Programs for Pupils] Immunization  <u>Alaska Stat. § 14.48.165</u> Immunization of postsecondary students</p> <p><b>Regulations:</b>  <u>4 Alaska Admin. Code 06.055</u> [Education and Early Development] Immunizations Required  <u>7 Alaska Admin. Code 27.892</u> [Confidentiality, Authorized Uses, and Security Standards] Authorized Uses of Identifiable Health Information</p>
AZ	<p><b>Statutes:</b>  <u>A.R.S. §§ 15-871 through 15-874</u> [School Attendance] School Immunization  <u>A.R.S. § 36-135</u> Child Immunization Reporting System; Requirements; Access; Confidentiality; Immunity; Violation; Classification  <u>A.R.S. §§ 36-671 through 36-674</u> [Public Health Controls] School Immunization</p> <p><b>Regulations:</b>  <u>A.A.C. § R6-12-315</u> [Cash Assistance Program] Immunization  <u>A.A.C. § R9-3-308</u> Enrolled Child Immunization Requirements  <u>A.A.C. § R9-5-305</u> Child Immunization Requirements  <u>A.A.C. §§ R9-6-701 through R9-6-708</u> Required Immunization for Child Care or School Entry</p>
AR	<p><b>Statutes:</b>  <u>A.C.A. § 6-18-702</u> [Elementary and Secondary Education Generally; Students; Health] Immunization</p>

	<p><u>A.C.A. §§ 6-60-501 through 6-60-504</u></p> <p><u>A.C.A. § 6-61-123</u></p> <p><u>A.C.A. §§ 20-15-1201 through 20-15-1203</u></p> <p><b>Regulations:</b></p> <p><u>005 15 CARR 010</u></p> <p><u>007 16 CARR 001</u></p>	<p>[Postsecondary and Secondary Education] Immunization</p> <p>[Postsecondary and Secondary Education] Meningococcal disease warning</p> <p>Immunization Registration</p> <p>Rules and Regulations Pertaining to Immunization Requirements Pursuant to Act 244 of 1967 and Act 633 of 1973</p> <p>Rules and Regulations Pertaining to Immunization Reporting</p>
CA	<p><b>Statutes:</b></p> <p><u>Cal Ed Code § 48216</u></p> <p><u>Cal Ed Code § 49403</u></p> <p><u>Cal Health &amp; Saf Code § 1596.799</u></p> <p><u>Cal Health &amp; Saf Code §§ 120325 through 120480</u></p> <p><u>Cal Health &amp; Saf Code § 124070</u></p> <p><u>Cal Health &amp; Saf Code § 124172</u></p> <p><u>Cal Wel &amp; Inst Code § 11265.8</u></p> <p><b>Regulations:</b></p> <p><u>17 CCR 6000 through 17 CCR 6075</u></p> <p><u>22 CCR 84269.1</u></p> <p><u>22 CCR 88069.3</u></p> <p><u>22 CCR 101220.1</u></p> <p><u>22 CCR 101520.1</u></p> <p><u>22 CCR 102418</u></p>	<p>Exclusion of Pupil Who Has Not Been Immunized; Notice to Parents</p> <p>Cooperation in Control of Communicable Disease and Immunization of Pupils</p> <p>[Child Day Care] Exemption from Immunization Requirements for Day Care Centers Exclusively Offering Services without Contract or Agreement</p> <p>[Communicable Disease and Control] Immunizations</p> <p>Reimbursement of Counties; Immunization Costs</p> <p>Mercury-Containing Vaccines</p> <p>Documentation that Children Not in School Have Had Required Immunizations; Notice of Obligation to Get Immunizations</p> <p>Immunization against Poliomyelitis, Diphtheria, Pertussis, Tetanus, Measles (Rubeola), Rubella, Haemophilus Influenzae Type B (HIB), Mumps, and Hepatitis B</p> <p>[Group Homes; Care for Children under the Age of Six Years] Immunizations</p> <p>[Foster Family Agencies; Continuing Requirements] Immunizations</p> <p>[Child Care Center General Licensing Requirements] Immunizations</p> <p>[School-Age Child Day Care Center] Immunizations</p> <p>[Family Day Care Homes for Children] Immunizations</p>
CO	<p><b>Statutes:</b></p> <p><u>C.R.S. 25-4-901 through 25-4-</u></p>	<p>School Entry Immunization</p>

	<p><u>909</u> C.R.S. 25-4-1701 through 25-4-1709</p> <p><u>2504</u> C.R.S. 25-4-2301 through 25-4-2504</p> <p><b>Regulations:</b> <u>6 CCR 1009-2</u></p>	<p>Infant Immunization</p> <p>Immunization Fund; Immunization Registry; Cervical Cancer Immunization</p> <p>Infant Immunization Program and Immunization of Students Attending School</p>
CT	<p><b>Statutes:</b> <u>Conn. Gen. Stat. § 10-204a</u> <u>Conn. Gen. Stat. §§ 10a-155 through 10a-155c</u>  <u>Conn. Gen. Stat. § 17b-185</u>  <u>Conn. Gen. Stat. §§ 19a-7f through 19a-7h</u>  <u>Conn. Gen. Stat. § 19a-7i</u>  <u>Conn. Gen. Stat. §§ 19a-131e through 19a-131f</u></p> <p><b>Regulations:</b> <u>Regs., Conn. State Agencies §§ 10-204a-1 through 10-204a-4</u> <u>Regs., Conn. State Agencies § 19a-87b-10</u></p>	<p>Required Immunizations</p> <p>Required Immunizations for College Students; Presence in Institution of a Student Who Has Not Been Immunized; Meningitis Vaccination for Residents of On-campus Housing; Meningitis information and records; Hepatitis B Information</p> <p>Immunizations and Health Screenings for Children; Assistance from Commissioner</p> <p>Childhood Immunization Schedule; Childhood Immunization Registry; Regulations</p> <p>Vaccines and Antibiotic Purchase and Childhood Immunization Registry; Health and Welfare Fee Assessment; Appeal; Limit on Aggregate Assessment</p> <p>[Public Health and Well Being] Orders of Vaccination; Appeal of Order; Hearing; Authorization to Administer Vaccinations</p> <p>School-Related Immunizations; Immunization of School Children</p> <p>Immunization Requirements for Family Day Care Homes, Child Care Centers and Group Care Homes</p>
DE	<p><b>Statutes:</b> <u>14 Del. C. § 131</u> <u>16 Del. C. § 509 through 16 Del. C. § 510</u> <u>18 Del. C. § 3558</u>  <u>31 Del. C. § 308</u></p>	<p>Public School Enrollees' Immunization Program; Exemptions</p> <p>Vaccination for Meningococcal Disease; Immunizations Containing Mercury</p> <p>[Provisions Applicable to Group and Blanket Health Insurance] Immunizations and Preventive Services</p> <p>[Child Welfare] Vaccinations</p>
DC	<p><b>Statutes:</b> <u>D.C. Code §§ 7-1651.01 through 7-1651.06</u></p>	<p>Vaccinations and Immunizations</p>

	<p><u>D.C. Code §§ 38-501 through 38-508</u></p> <p><b>Regulations:</b></p> <p><u>CDCR 5-E5300</u></p> <p><u>CDCR 22-B129 through 22-B199</u></p>	<p>Immunization of School Students</p> <p>Public School Immunization Procedures and Requirements</p> <p>Immunization: Reports and General Provisions; Required Immunizations for Students under Seven Years of Age; Required Immunizations for Students between Seven Years of Age and Seventeen Years of Age</p>
FL	<p><b>Statutes:</b></p> <p><u>Fla. Stat. § 414.13</u></p> <p><u>Fla. Stat. § 1003.22</u></p> <p><u>Fla. Stat. § 1006.69</u></p> <p><b>Regulations:</b></p> <p><u>6D-9.005, F.A.C.</u></p> <p><u>64D-3.046, F.A.C.</u></p> <p><u>65A-4.216, F.A.C.</u></p>	<p>[Family Self-Sufficiency] Immunization</p> <p>School-entry Health Examinations; Immunization against Communicable Diseases; Exemptions; Duties of Department of Health</p> <p>Vaccination against Meningococcal Meningitis and Hepatitis B</p> <p>[School for the Deaf and Blind] Health Screenings and Immunizations</p> <p>Immunization Requirements: Public and Nonpublic Schools, Grades Preschool, Kindergarten Through 12, and Adult Education Classes</p> <p>[Economic Self-Sufficiency Program] Immunization Program</p>
GA	<p><b>Statutes:</b></p> <p><u>O.C.G.A. § 20-2-771</u></p> <p><u>O.C.G.A. § 20-2-778</u></p> <p><u>O.C.G.A. §§ 31-12-3 through 31-12-4.1</u></p> <p><b>Regulations:</b></p> <p><u>Ga. Comp. R. &amp; Regs. r. 290-5-4-.01 through 290-5-4-.07</u></p>	<p>Immunization of Students</p> <p>Required Information to Parents of Students Regarding Meningococcal Meningitis</p> <p>Power to Require Immunization and Other Preventive Measures; Vaccination Registry; Reporting Requirements, Maintenance, and Use; Meningococcal Disease; Vaccinations; Disclosures; Isolation and Segregation of Diseased Persons; Quarantine; Smallpox Vaccination and Treatment Program</p> <p>Immunization of Children as a Prerequisite to Admission to Schools and Other Facilities</p>
GU	<p><b>Statutes:</b></p>	



	<u>10 GCA § 3322</u>	[Disease Control] Vaccination and Immunization
	<u>10 GCA § 3326</u>	Immunization Audit
HI	<b>Statutes:</b> <u>HRS §§ 302A-1154 through 302A-1158</u>  <u>HRS §§ 325-32 through 325-38</u> <b>Regulations:</b> <u>WCHR 11-157</u>	Immunization upon Entering School; Tuberculosis Clearance; Provisional Entrance to School; Exemptions; Exemptions from Immunizations; Not Recognized, Epidemic Conditions; Immunization of Indigent Children Vaccination and Immunization  Examination and Immunization
ID	<b>Statutes:</b> <u>Idaho Code § 39-1118</u> <u>Idaho Code §§ 39-4801 through 39-4804</u> <b>Regulations:</b> <u>IDAPA 16.02.11.000 through 16.02.11.999</u> <u>IDAPA 16.02.15.000 through 16.02.15.999</u> <u>IDAPA 16.03.08.141</u>	[Basic Day Care License] Immunization Required Immunization  Immunization Requirements for Children Attending Licensed Daycare Facilities Immunization Requirements for Idaho School Children [Rules Governing Temporary Assistance for Families] Immunization Requirements
IL	<b>Statutes:</b> <u>20 ILCS 2310/2310-255</u> <u>110 ILCS 305/21</u> <u>410 ILCS 51/1 through 410 ILCS 51/15</u> <u>410 ILCS 235/1 through 410 ILCS 235/9</u> <u>410 ILCS 315/1.5</u> <u>410 ILCS 330/0.01 through 410 ILCS 330/2</u> <u>410 ILCS 527/1 through 410 ILCS 527/99</u> <b>Regulations:</b> <u>77 Ill. Adm. Code 665.210</u> <u>77 Ill. Adm. Code 665.240 through 77 Ill. Adm. Code 665.290</u>	Immunization Outreach Programs [University of Illinois] Meningitis Vaccine; Information Mercury-Free Vaccine Pertussis Vaccine Pneumococcal Conjugate Vaccine Polio Vaccine Immunization Data Registry  [Child Health Examination] Proof of Immunizations [Child Health Examination] Basic Immunization; Proof of Immunity; Booster Immunizations; Compliance with School Code; Physician Statement of Immunity; List of Non-Immunized Students

	<u>77 Ill. Adm. Code 695.10 through 77 Ill. Adm. Code 695 Appx. A</u> <u>77 Ill. Adm. Code 698.10 through 77 Ill. Adm. Code 698 Appx. A</u>	Immunization Code Pertussis Vaccine Pamphlet
IN	<b>Statutes:</b> <u>Burns Ind. Code Ann. § 12-17.2-3.5-11.1</u> <u>Burns Ind. Code Ann. § 12-17.2-4-18.1</u> <u>Burns Ind. Code Ann. § 12-17.2-6-11</u> <u>Burns Ind. Code Ann. §§ 16-38-5-1 through 16-38-5-4</u> <u>Burns Ind. Code Ann. § 20-30-5-18</u> <u>Burns Ind. Code Ann. §§ 20-34-4-1 through 20-34-4-6</u> <u>Burns Ind. Code Ann. § 21-40-5-5</u> <b>Regulations:</b> <u>407 IAC 3-4-1</u> <u>410 IAC 1-1-1 through 410 IAC 1-1-4</u>	[Eligibility of Child Care Provider to Receive Reimbursement through Voucher Program] Immunization Documentation [Regulation of Child Care Centers] Immunization Documentation [Regulation of Child Care Ministries] Proof of Immunization -- Objections Immunization Data Registry Information Concerning Meningococcal Disease and Vaccines to be Provided to Students and Parents [Student Health and Safety Measures] Immunizations Students and Parents to be Informed of Risks Associated with Meningococcal Disease and Availability and Effectiveness of Vaccine [Early Intervention Services] Immunizations; Screenings; Diagnosis Immunization of School Children
IA	<b>Statutes:</b> <u>Iowa Code § 135.39B</u> <u>Iowa Code § 139A.8</u> <u>Iowa Code § 139A.26</u> <u>Iowa Code § 239B.12</u> <b>Regulations:</b> <u>281 IAC 33.5(256)</u> <u>641 IAC 7.1(139A) through 641 IAC 7.12(22)</u>	Early Childhood Immunizations Immunization of Children Meningococcal disease vaccination information for postsecondary students [Family Investment Program] Immunization [Nontraditional Students] Immunization Requirements Immunization and Immunization Education: Persons Attending Elementary or Secondary Schools, Licensed Child Care Centers or Institutions of Higher Education
KS	<b>Statutes:</b>	

	<p><u>K.S.A. §§ 38-135 through 38-140</u></p> <p><u>K.S.A. § 65-508</u></p> <p><u>K.S.A. § 65-531</u></p> <p><u>K.S.A. § 65-1,251</u></p> <p><u>K.S.A. §§ 72-5208 through 72-5211a</u></p> <p><u>K.S.A. § 76-761a</u></p> <p><b>Regulations:</b></p> <p><u>K.A.R. § 28-1-20</u></p> <p><u>K.A.R. § 28-4-121</u></p>	<p>Immunization of Minor Children; Written Delegation of Consent by Parent; Consent for Immunization by Person Other than Parent, When; Health Care Provider to Provide Information to Person Consenting to Immunization; Health Care Provider Has Immunity if Relying on Consent; Consent to Immunize under 38-1513 or 38-2316 not Affected</p> <p>[Maternity Centers and Child Care Facilities] Equipment, supplies, accommodations; competent supervision and care of children; rules and regulations; immunizations</p> <p>[Maternity Centers and Child Care Facilities] Immunization Information and Records; Disclosure</p> <p>Influenza Immunization for Children; School-based Influenza Vaccination Pilot Program; Study and Report</p> <p>[Health Programs] Immunization</p> <p>Student Housing; Meningitis Vaccination</p> <p>Immunizations; Schools, Child Care Facilities, Family Day Care Homes, and Preschool or Child Care Programs Operated by a School</p> <p>Required Immunizations for Children under 16 Years of Age</p>
KY	<p><b>Statutes:</b></p> <p><u>KRS §§ 158.035 through 158.037</u></p> <p><u>KRS § 158.297</u></p> <p><u>KRS § 164.2867</u></p> <p><u>KRS §§ 214.034 through 214.036</u></p> <p><b>Regulations:</b></p>	<p>[Conduct of Schools] Certificate of Immunization; Report of Immunization Results</p> <p>[Conduct of Schools] Meningococcal Meningitis Disease and Vaccine Information</p> <p>Provision of Vaccination Information Regarding Meningococcal Meningitis Disease to Postsecondary Students</p> <p>Immunization of Children -- Testing and Treatment of Children for Tuberculosis -- Requirement for Reception and Retention of Current Immunization Certificate by Schools and Child-care Facilities; Exceptions to Testing or Immunization Requirement</p>

	<p><u>902 KAR 2:055 through 902 KAR 2:060</u></p> <p><u>907 KAR 1:680</u></p>	<p>Immunization data reporting and exchange; Immunization schedules for attending child day care centers, certified family child care homes, other licensed facilities which care for children, preschool programs, and public and private primary and secondary schools</p> <p>Vaccines for Children Program</p>
LA	<p><b>Statutes:</b></p> <p><u>La. R.S. 17:170 through 17:170.4</u></p> <p><u>La. R.S. 40:31.11 through 40:31.16</u></p> <p><u>La. R.S. 46:231.4</u></p> <p><u>La. R.S. 46:977</u></p> <p><b>Regulations:</b></p> <p><u>LAC 28:LXXIX.1101</u></p> <p><u>LAC 28:CXV.1121</u></p>	<p>Immunization of persons entering schools, kindergartens, colleges, proprietary or vocational schools, and day care centers for the first time; immunization of persons entering sixth grade; electronic transmission of immunization compliance reports; Immunizations of persons registering for courses at postsecondary education institutions requirements; exceptions; electronic transmission of immunization compliance reports; Immunization information; meningococcal disease; Immunization information; human papillomavirus; Immunizations of certain persons against meningococcal disease; exceptions</p> <p>Immunization Registry</p> <p>[Aid to Needy Families] Immunization Compliance; Exceptions</p> <p>Vaccinations for Certain Juveniles in State Custody</p> <p>[Handbook for Nonpublic School Administrators] Immunization</p> <p>[Student Services] Immunizations</p>
ME	<p><b>Statutes:</b></p> <p><u>20-A M.R.S. § 6352 through 20-A M.R.S. § 6359</u></p> <p><u>20-A M.R.S. § 10008</u></p> <p><u>22 M.R.S. § 1061 through 22 M.R.S. § 1066</u></p> <p><b>Regulations:</b></p> <p><u>CMR 05-071-126</u></p> <p><u>CMR 10-144-261</u></p>	<p>[Elementary and Secondary Education] Immunization</p> <p>Information on meningococcal disease and vaccine</p> <p>[Communicable Diseases] Immunization</p> <p>[Department of Education] Immunization Requirements for School Children</p> <p>[Department of Health and Human Services ] Immunization Requirements for School Children</p>

	<u>CMR 10-144-248</u>	List of Vaccines to be Provided by the Universal Childhood Immunization Program
<b>MD</b>	<p><b>Statutes:</b>  <u>Md. EDUCATION Code Ann. § 7-403</u>  <u>Md. HEALTH-GENERAL Code Ann. § 18-102</u>  <u>Md. HEALTH-GENERAL Code Ann. §§ 18-4A-02 through 18-4A-05</u></p> <p><b>Regulations:</b>  <u>COMAR 10.06.04.01 through 10.06.04.10</u>  <u>COMAR 10.16.06.28</u></p>	<p>[Health and Safety of Students] Immunization  Disease Prevention; Infectious and Contagious Diseases  Consent to Immunization of Minors</p> <p>School Health Services and Required Immunizations Before Entry into School [Certification for Youth Camp] Camper's Immunizations Requirements</p>
<b>MA</b>	<p><b>Statutes:</b>  <u>ALM GL ch. 76, § 15</u>  <u>ALM GL ch. 76, § 15C through ch. 76, § 15D</u>  <u>ALM GL ch. 111, § 24I</u>  <u>ALM GL ch. 111, § 24M</u></p> <p><b>Regulations:</b>  <u>105 CMR 220.100 through 105 CMR 221.300</u></p>	<p>[School Attendance] Vaccination and Immunization Required; Exceptions  Immunization of College Students; Measles, Mumps, Rubella, Tetanus and Diphtheria; Required Proof of Immunization; Exceptions; Immunization of College Students; Meningococcal Disease</p> <p>[Department of Public Health] Universal Immunization Program Established  [Department of Public Health] Immunization Registry</p> <p>Immunization of Students before Admission to School; Promoting Awareness of Meningococcal Disease and Vaccine</p>
<b>MI</b>	<p><b>Statutes:</b>  <u>MCLS §§ 333.9201 through 333.9229</u>  <u>MCLS § 380.1177</u>  <u>MCLS § 388.1767</u></p>	<p>Immunization</p> <p>[School Districts; Powers and Duties Generally] Immunization Statements; Vision Test; Immunization Status and Vision Report; Rules</p> <p>Plan for Compliance with MCL 333.9209 and 380.1177; Report of Immunization Status; Districts Subject to Subsection (4); Failure to Comply with Section; Pupil Relocated in State Due to Natural Disaster</p>

	<p><u>MCLS § 722.127</u> [Child Care Organizations] Objection on Religious Grounds to Medical Examination, Immunization, or Treatment of Child</p> <p><b>Regulations:</b></p> <p><u>MICH. ADMIN. CODE R 325.161 through 325.169</u> Child Improvement Registry</p> <p><u>MICH. ADMIN. CODE R 325.176</u> Immunizations Required of Children Attending Group Programs or Entering School</p> <p><u>MICH. ADMIN. CODE R 400.3115</u> [Family Independence Program] Immunizations; Exemptions; Informing Client of Immunization Requirement; FIA Assistance; Compliance; Penalty</p>
<b>MN</b>	<p><b>Statutes:</b></p> <p><u>Minn. Stat. § 121A.15</u> Health Standards; Immunization; School Children</p> <p><u>Minn. Stat. § 135A.14</u> [Public Post-Secondary Education] Statement of Immunization</p> <p><u>Minn. Stat. §§ 144.3351 through 144.3352</u> [Health Records and Reports] Immunization Data; Hepatitis B Maternal Carrier Data; Infant Immunization</p> <p><u>Minn. Stat. § 144.3441</u> Hepatitis B Vaccination</p> <p><b>Regulations:</b></p> <p><u>Minn. R. 4604.0100 through 4604.1000</u> [Board of Health] Immunization</p>
<b>MS</b>	<p><b>Statutes:</b></p> <p><u>Miss. Code Ann. § 37-11-61</u> Local school districts and agricultural high schools to provide parents information about meningococcal disease; State Board of Health to develop information about meningococcal disease for distribution to parents</p> <p><u>Miss. Code Ann. § 41-23-37</u> [Contagious and Infectious Diseases] Immunization practices for control of vaccine preventable diseases; school attendance by unvaccinated children</p> <p><u>Miss. Code Ann. § 41-23-45</u> Department of Health to Provide Educational Material on Availability of Vaccines for Meningitis and Hepatitis A and B to Public Universities and Colleges for Distribution to Students</p> <p><u>Miss. Code Ann. §§ 41-23-101 through 41-23-121</u> Rubella Screening, Counseling and Vaccination; Funding for School-Located Influenza Vaccination Programs</p> <p><u>Miss. Code Ann. §§ 41-88-1 through 41-88-3</u> Child Immunization</p>

	<b>Regulations:</b> <u>CMSR 15-000-054</u> Immunization Requirements for Child Care and School Entrance Attendance
MO	<b>Statutes:</b> <u>§§ 167.181 through 167.191 R.S.Mo.</u> [Pupils] Immunization of pupils against certain diseases compulsory -- exceptions -- records -- to be at public expense, when -- fluoride treatments administered, when -- rulemaking authority, procedure; HPV informational brochure, contents; Immunization records, disclosure, to whom--disclosure for unauthorized purpose, liability; Children with contagious diseases not to attend school--penalty  <u>§ 174.335 R.S.Mo.</u> Meningococcal Disease, All On-campus Students Provided Information on -- Election to Receive Vaccination -- Records to be Maintained  <u>§ 191.235 R.S.Mo.</u> Mercury Contained in Immunizations, Not to Be Administered to Certain Persons -- Insurance Reimbursement for Nonmercury Immunizations -- Exemptions, When  <u>§ 192.630 R.S.Mo.</u> Advisory committee on childhood immunization--members--public meetings, costs -- appointment -- duties  <u>§ 210.003 R.S.Mo.</u> Immunizations of Children Required, When, Exceptions -- Duties of Administrator, Report  <u>§ 431.058 R.S.Mo.</u> Consent to Immunization of Child, Who May Give, When -- Definitions -- Reliance by Health Care Provider -- Limitations on Liability, When  <b>Regulations:</b> <u>19 CSR 20-28.010 through 19 CSR 20-28.060</u> Immunization
MT	<b>Statutes:</b> <u>Mont. Code Anno., §§ 20-5-402 through 20-5-420</u> [Pupils; Health] Definitions; Immunization Required -- Release and Acceptance of Immunization Records; Conditional Attendance; Medical or Religious Exemption; Immunization Record; Rulemaking; Enforcement; Failure to Immunize or Claim Exemption --





	<p><u>Nev. Rev. Stat. Ann. §§ 394.192 through 394.199</u> [Private Educational Institutions and Establishments] Immunization of Pupils</p> <p><u>Nev. Rev. Stat. Ann. § 422A.355</u> Recipients of Public Assistance: Immunization of Dependent Children</p> <p><u>Nev. Rev. Stat. Ann. §§ 432A.230 through 432A.280</u> Immunization of Children Admitted to Child Care Facilities</p> <p><b>Regulations:</b></p> <p><u>NAC 392.105</u> [Pupils] Immunization against Disease</p> <p><u>NAC 394.250</u> [Private Kindergarten, Elementary and Secondary Schools; Immunization Against Disease] Mumps, Hepatitis A, Hepatitis B and Varicella and Bordetella Pertussis</p> <p><u>NAC 432A.500 through 432A.510</u> [Services and Facilities for the Care of Children] Immunization against Disease</p> <p><u>NAC 639.2976</u> Notification of Immunizations</p>
NH	<p><b>Statutes:</b></p> <p><u>RSA 126-Q:1 through 126-Q:9</u> Vaccine Association</p> <p><u>RSA 141-C:20-a through 141-C:23</u> [Public Health; Communicable Disease] Immunization; Records; Exemptions; Exclusion During Outbreak of Disease; Immunization Reports; Immunization Registry; Penalty; Penalty for Sale or Use for Personal Gain; Injunction</p> <p><b>Regulations:</b></p> <p><u>N.H. Admin. Rules, Ed 311.01</u> School Immunization Program</p> <p><u>N.H. Admin. Rules, He-P 301.13 through He-P 301.14</u> [Communicable Diseases] Documentation of Immunization; Immunization Requirements</p>
NJ	<p><b>Statutes:</b></p> <p><u>N.J. Stat. §§ 18A:40-16 through 18A:40-21.2</u> [Conduct of Schools] Immunization of, and Treatment of, Specific Diseases</p> <p><u>N.J. Stat. §§ 18A:61D-1 through 18A:61D-10</u> [Higher Education; Public and Non-Public Institutions] Rules and Regulations</p> <p><u>N.J. Stat. § 26:1A-9.1</u> Exemption for Pupils from Mandatory Immunization; Interference with Religious Rights; Suspension</p> <p><u>N.J. Stat. §§ 26:2N-1 through 26:2N-11</u> Vaccines</p> <p><u>N.J. Stat. §§ 26:4-131 through 26:4-138</u> [Health and Vital Statistics; Communicable Diseases] Immunization Registry</p> <p><u>N.J. Stat. § 26:12-16</u> [Youth Camps] Inapplicability of Act to Persons Who Object to Medical Examination, Immunization or Treatment on Religious Grounds</p>

	<b>Regulations:</b> <u>N.J.A.C. 8:57-4.1 through 8:57-4.24</u> <u>N.J.A.C. 10:54-8.5</u> <u>N.J.A.C. 10:58A-2.13</u> <u>N.J.A.C. 10:122-7.3</u>	Immunization of Pupils in School Vaccines for Children Program Vaccines for Children Program Health and Immunization Requirements for Children
NM	<b>Statutes:</b> <u>N.M. Stat. Ann. §§ 24-5-1 through 24-5-15</u> <b>Regulations:</b> <u>6.12.2.8 NMAC</u> <u>7.5.2.1 through 7.5.3.8 NMAC</u>	Immunization Requirements for Immunization of Children Attending Public, Nonpublic, or Home Schools Vaccinations and Immunizations
NY	<b>Statutes:</b> <u>NY CLS Educ § 914</u> <u>NY CLS Pub Health § 2112</u> <u>NY CLS Pub Health §§ 2164 through 2168</u> <b>Regulations:</b> <u>10 NYCRR § 66-1.1 through 10 NYCRR § 66-1.10</u> <u>10 NYCRR § 69-3.9 through 10 NYCRR § 69-3.11</u>	Immunization of Children Immunizations; Prohibition of Mercury [Control of Acute Communicable Diseases] Definitions; immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B; Immunization of certain post-secondary students; Immunization; regulations; Immunization against meningococcal meningitis; Statewide immunization information system Immunizations against Poliomyelitis, Diphtheria, Measles, Mumps and Rubella [Pregnant, Women, Testing for Hepatitis B, Follow-Up Care] Medical Exemption from Immunization; Religious Exemption from Immunization; Failure to Obtain Required Immunization
NC	<b>Statutes:</b> <u>N.C. Gen. Stat. § 115C-375.4</u> <u>N.C. Gen. Stat. §§ 130A-152 through 130A-159</u> <u>N.C. Gen. Stat. §§ 130A-422 through 130A-439</u> <b>Regulations:</b>	[Special Medical Needs of Students] Meningococcal Meningitis and Influenza and Their Vaccines [Communicable Diseases] Immunization Childhood Vaccine-Related Injury Compensation Program

	<u>10A N.C.A.C. 41A.0401 through 10A N.C.A.C. 41A.0406</u>	Immunization
ND	<b>Statutes:</b> <u>N.D. Cent. Code, §§ 23-07-16 through 23-07-17.1</u>  <b>Regulations:</b> <u>N.D. Admin. Code 33-06-05-01</u>	Child having contagious or infectious disease prohibited from attending school -- Exception; School district to adopt policy relating to significant contagious diseases; Inoculation required before admission to school  School Immunization Requirements
OH	<b>Statutes:</b> <u>ORC Ann. 3313.67 through 3313.671</u> <u>ORC Ann. 3345.85</u>  <b>Regulations:</b> <u>OAC Ann. 5101:3-4-12</u> <u>OAC Ann. 3701-2-04.4</u>	Immunization of pupils; records, reports; Required immunizations; exceptions Disclosure of Meningococcal Meningitis and Hepatitis B Vaccination Status of Students Living in On-campus Housing  Immunizations [Department of Health; Divisions and Bureaus] Bureau of Infectious Diseases
OK	<b>Statutes:</b> <u>10 Okl. St. § 411 through 10 Okl. St. § 415</u> <u>56 Okl. St. § 230.56</u> <u>63 Okl. St. § 488.1</u>  <u>70 Okl. St. § 1210.191 through 70 Okl. St. § 1210.195</u>  <b>Regulations:</b> <u>O.A.C. §§ 310:535-1-1 through 310:535-1-3</u>	[Child Care Facilities Licensing Act] Immunization of Children Immunization Incentive Program [Infantile Paralysis] Program of Immunization [Other School Laws] Immunization  Immunizations; Childhood Immunizations
OR	<b>Statutes:</b> <u>ORS §§ 433.267 through 433.284</u>	Immunization of School Children; Rules; Exceptions; Effect of Failure to Comply; Immunization by Local Health Departments; Rules; Records and Reports; Thimerosal Prohibited in School Entry Immunizations Provided by Department of Human Services; Exceptions; Rules; Status of Immunization Records as Public Records; Required Immunizations at Certain Post-Secondary Educational Institutions; Rules; Immunizations Against Measles for Certain Students at Community Colleges; Rules; Adoption of More Stringent Immunization

		Requirements
	<b>Regulations:</b> <u>Or. Admin. R. 333-048-0010 through 333-050-0140</u> <u>Or. Admin. R. 410-146-0100</u>	Vaccine Education and Prioritization Plan; Immunization Registry; School Immunization Rules [American Indian/Alaskan Native] Vaccines for Children
PA	<b>Statutes:</b> <u>24 P.S. § 13-1303a</u> <u>35 P.S. § 633.1 through 35 P.S. § 633.3</u> <u>40 P.S. § 3501 through 40 P.S. § 3508</u> <b>Regulations:</b> <u>22 Pa. Code § 51.13</u> <u>28 Pa. Code § 23.81 through 28 Pa. Code § 23.87</u> <u>28 Pa. Code § 27.77</u> <u>55 Pa. Code § 168.51</u> <u>55 Pa. Code Part III, Ch 1241, Appendix D</u> <u>55 Pa. Code § 3041.46</u>	[Public School Code] Immunization Required; Penalty College and University Student Vaccination Childhood Immunization Insurance [State Board of Private Academic Schools] Immunization [School Health] Immunization Immunization Requirements for Children in Child Care Group Settings [Child Care] Verification of Age-Appropriate Immunizations EPSDT Immunization Guidelines - Statement of Policy [Subsidized Child Care Eligibility Requirements] Immunization
PR	<b>Statutes:</b> <u>1 L.P.R.A. § 5085</u> <u>18 L.P.R.A. § 2319</u> <u>24 L.P.R.A. § 182 through 24 L.P.R.A. § 182I</u>	Vaccination Day [Church School Regulation] Immunization Immunization for Preschool Children and Students
RI	<b>Statutes:</b> <u>R.I. Gen. Laws § 16-38-2</u> <u>R.I. Gen. Laws § 23-1-18</u> <u>R.I. Gen. Laws § 23-1-44</u>	[Offenses Pertaining to Schools] Immunization [Department of Health] Power to Provide Rules and Regulations in Specific Areas Routine Childhood and Adult

	<p><b>Regulations:</b></p> <p><u>CRIR 14-130-001</u></p>	<p>Immunization Vaccines</p> <p>Administration of Immunizations by Pharmacists</p>
SC	<p><b>Statutes:</b></p> <p><u>S.C. Code Ann. § 44-29-40</u></p> <p><u>S.C. Code Ann. §§ 44-29-180 through 44-29-190</u></p> <p><u>S.C. Code Ann. § 59-101-290</u></p> <p><b>Regulations:</b></p> <p><u>S.C. Code Regs. 61-8</u></p>	<p>Department of Health and Environmental Control shall have general supervision of vaccination, screening and immunization; statewide immunization registry</p> <p>School Pupils and Day Care Center Children to Be Vaccinated or Immunized; Department to Monitor Immunization Records of Children in Day Care; Exemptions and Exclusions; Penalty for Violation</p> <p>[Colleges and Institutions of Higher Learning Generally] Notification of Risk of Contracting Certain Diseases if Living On-Campus</p> <p>Vaccination, Screening and Immunization Regarding Contagious Diseases</p>
SD	<p><b>Statutes:</b></p> <p><u>S.D. Codified Laws §§ 13-28-7.1 through 13-28-7.2</u></p> <p><u>S.D. Codified Laws § 13-53-47</u></p> <p><b>Regulations:</b></p> <p><u>ARSD 20:51:28:01 through 20:51:28:07</u></p>	<p>Communicable Disease Tests and Immunizations -- Requirement for Admission to School or Early Childhood Program -- Alternatives to Physician Certification -- Rules to Require Compliance and Documentation; Tuberculosis Test and Immunizations -- Provision at Public Expense</p> <p>[Administration of State Educational Facilities] Certification from Licensed Physician Regarding Immunizations -- Alternatives</p> <p>[Pharmacists] Administration of Influenza Immunizations</p>
TN	<p><b>Statutes:</b></p> <p><u>Tenn. Code Ann. §§ 37-10-401 through 37-10-403</u></p> <p><u>Tenn. Code Ann. §§ 49-6-5001 through 49-6-5005</u></p> <p><u>Tenn. Code Ann. § 49-50-802</u></p>	<p>Childhood Immunization</p> <p>Immunization of School Children</p> <p>[Private Schools] Information about Meningococcal Disease and the Effectiveness of Vaccination</p>

	<p><b>Regulations:</b></p> <p><u>Tenn. Comp. R. &amp; Regs. R. 1200-14-01-.29</u> Immunization against Certain Diseases Prior to School Attendance</p> <p><u>Tenn. Comp. R. &amp; Regs. R. 1240-01-47-.17</u> Immunization and Health Checks for Minor Children</p>
TX	<p><b>Statutes:</b></p> <p><u>Tex. Educ. Code §§ 38.001 through 38.0025</u> [Safe Schools] Immunization; Requirements; Exceptions; Immunization Records; Reporting; Dissemination of Bacterial Meningitis Information</p> <p><u>Tex. Educ. Code §§ 51.9191 through 51.9192</u> [Higher Education] Bacterial Meningitis Information for New Students; Bacterial Meningitis Vaccination Required for Certain Students; Exceptions</p> <p><u>Tex. Fam. Code §§ 32.101 through 32.200</u> [Consent to Treatment of Child by Nonparent or Child] Immunization</p> <p><u>Tex. Health &amp; Safety Code §§ 161.0001 through 161.0109</u> [Public Health Provisions] Immunizations</p> <p><b>Regulations:</b></p> <p><u>25 TAC § 97.61 through 25 TAC § 97.102</u> Immunization Requirements in Elementary Schools and Institutions of Higher Education; Consent for Immunization; Statewide Immunization of Children in Certain Facilities and by Hospitals, Physicians, and other Health Care Providers</p> <p><u>25 TAC § 100.1 through 25 TAC § 100.10</u> Immunization Registry</p> <p><u>40 TAC § 745.8001</u> [Maternity Home Minimum Standards] What Immunizations Are Children in My Care Required to Have?</p> <p><u>40 TAC § 746.613 through 40 TAC § 746.625</u> [Minimum Standards for Child Care Centers] Records of Children</p> <p><u>40 TAC § 749.1421 through 40 TAC § 749.1425</u> [Foster Care Services] What Immunizations Must a Child in My Care Have? What Are the Exemptions from Immunization Requirements? What Documentation Is Acceptable for an Immunization Record?</p>
UT	<p><b>Statutes:</b></p> <p><u>Utah Code Ann. § 26-23-6</u> [Utah Health Code; Enforcement Provisions and Penalties] Criminal and civil penalties and liability for violations</p> <p><u>Utah Code Ann. §§ 53A-11-301 through 53A-11-306</u> Immunization of Students</p> <p><b>Regulations:</b></p>

	<u>U.A.C. R386-800-1 through R386-800-8</u> <u>U.A.C. R396-100-1 through R396-100-9</u>	Immunization Coordination Immunization Rule for Students
VT	<b>Statutes:</b> <u>18 V.S.A. § 1120 through 18 V.S.A. § 1130</u> <b>Regulations:</b> <u>CVR 04-030-230</u> <u>CVR 13-140-021</u>	Immunization Board of Pharmacy Administrative Rules Immunization Regulations
VA	<b>Statutes:</b> <u>Va. Code Ann. § 22.1-271.2</u> <u>Va. Code Ann. § 23-7.5</u> <u>Va. Code Ann. §§ 32.1-46 through 32.1-46.02</u> <u>Va. Code Ann. § 32.1-47</u> <u>Va. Code Ann. § 63.2-603</u> <b>Regulations:</b> <u>12 VAC 5-90-110</u> <u>12 VAC 5-110-10 through 12 VAC 5-110-130</u> <u>12 VAC 30-10-50</u> <u>22 VAC 15-30-150</u> <u>22 VAC 15-30-170</u>	[Pupils] Immunization Requirements [Educational Institutions; Health Histories Required] Immunizations Immunization of Patients against Certain Diseases; Virginia Immunization Information System; Administration of Influenza Vaccine to Minors Exclusion from School of Children Not Immunized Eligibility for TANF; Childhood Immunizations Immunization of Persons Less than 18 Years of Age Regulations for the Immunization of School Children Pediatric Immunization Program [Licensed Day Care Center] Immunizations for Children [Licensed Day Care Center] Form and Content of Immunizations and Physical Examination Reports for Children
VI	<b>Regulations:</b> <u>CVIR 17-010-000, Sec. 116-1 through 17-010-000, Sec. 116-10</u>	Immunization from Communicable Diseases
WA	<b>Statutes:</b> <u>Rev. Code Wash. (ARCW) §§ 28A.210.060 through 28A.210.170</u> <u>Rev. Code Wash. (ARCW) § 70.95M.115</u> <b>Regulations:</b> <u>WAC § 170-295-7020</u>	[Common School Provisions] Immunization Program [Mercury] Vaccines [Minimum Licensing Requirements for Child Care Centers] Am I Required to Track Immunizations?

	<p><u>WAC § 170-296-0850</u></p> <p><u>WAC §§ 180-38-005 through 180-38-050</u></p> <p><u>WAC §§ 246-105-010 through 246-105-090</u></p> <p><u>WAC § 392-182-020</u></p> <p><u>WAC §§ 392-380-005 through 392-380-080</u></p>	<p>[Child Care Business Regulations for Family Home Child Care] Must All Children in My Care Have Current Immunizations?</p> <p>Private School Pupil Immunization Requirement</p> <p>Immunization of Child Care and School Children against Certain Vaccine-Preventable Diseases</p> <p>[Student - Health Records] Quick Verification of Immunization Records</p> <p>Public School Pupils - Immunization Requirement and Life Threatening Health Condition</p>
WV	<p><b>Statutes:</b></p> <p><u>W. Va. Code §§ 16-3-4 through 16-3-5</u></p> <p><u>W. Va. Code §§ 16-3B-1 through 16-3B-5</u></p> <p><u>W. Va. Code § 18B-1B-4</u></p> <p><u>W. Va. Code § 30-5-30</u></p> <p><b>Regulations:</b></p> <p><u>W. Va. CSR §§ 64-52-1 through 64-52-9</u></p> <p><u>W. Va. CSR §§ 64-58-1 through 64-58-3</u></p> <p><u>W. Va. CSR §§ 64-95-1 through 64-95-11</u></p>	<p>Compulsory Immunization of School Children; Information Disseminated; Offenses; Penalties; Distribution of Free Vaccine Preventives of Disease</p> <p>Pertussis</p> <p>Powers and Duties of Higher Education Policy Commission</p> <p>[Pharmacists, Pharmacy Technicians, Pharmacy Interns and Pharmacies] Administration of immunizations</p> <p>Pertussis Guidelines</p> <p>Immunization Criteria for Transfer Students</p> <p>Immunization Requirements and Recommendations for New School Enterers</p>
WI	<p><b>Statutes:</b></p> <p><u>Wis. Stat. § 36.25</u></p> <p><u>Wis. Stat. § 48.735</u></p> <p><u>Wis. Stat. § 252.04</u></p> <p><u>Wis. Stat. § 252.09</u></p> <p><b>Regulations:</b></p> <p><u>Wis. Adm. Code DHS 144.01 through DHS 144.09</u></p> <p><u>Wis. Adm. Code DHS 146.01 through DHS 146.04</u></p>	<p>[University of Wisconsin System] Special Programs</p> <p>Immunization requirements; child care centers</p> <p>[Communicable Diseases] Immunization Program</p> <p>[Health; Communicable Diseases] Meningococcal disease and Hepatitis B</p> <p>Immunization of Students</p> <p>Vaccine-Preventable Diseases</p>



<b>WY</b>	<b>Statutes:</b>
	<u>Wyo. Stat. § 14-4-116</u> Mandatory Immunizations for Children Attending Child Caring Facilities
	<u>Wyo. Stat. § 21-4-309</u> Mandatory Immunizations for Children Attending Schools; Exceptions
	<u>Wyo. Stat. § 35-4-139</u> Childhood Immunizations
	<b>Regulations:</b>
	<u>WCWR 048-141-001</u> Rules and Regulations for School Immunizations
	<u>WCWR 048-220-007</u> Child Immunization Rules