

Introduced by

Representatives Weisz, Becker, Devlin, Lefor, Meier, Paulson, Porter, Schauer

Senators Lee, Wardner

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact a new section to chapter 34-03 of the North Dakota
2 Century Code, relating to employer-required COVID-19 vaccinations; to amend and reenact
3 ~~section~~sections 23-01-05.3 and 23-12-20 of the North Dakota Century Code, relating to vaccine
4 passports and limitations on requiring documentation of COVID-19 vaccinations, antibodies,
5 and post-transmission recovery status; to repeal section 23-12-20 of the North Dakota Century
6 Code and section 2 of this Act, relating to limitations on requiring documentation of COVID-19
7 vaccinations, antibodies, and post-transmission recovery status and employer-required COVID-
8 19 vaccinations; and to provide an effective date.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Section 23-01-05.3 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **23-01-05.3. Immunization data. (Effective through August 31, 2022)**

- 13 1. The state department of health may establish an immunization information system and
14 may require the childhood immunizations specified in subsection 1 of section
15 23-07-17.1 and other information be reported to the department. The state department
16 of health may only require the reporting of childhood immunizations and other data
17 upon completion of the immunization information reporting system. A health care
18 provider who administers a childhood immunization shall report the patient's
19 identifying information, the immunization that is administered, and other required
20 information to the department. The report must be submitted using electronic media,
21 and must contain the data content and use the format and codes specified by the
22 department.
- 23 2. If a health care provider fails to submit an immunization report required under this
24 section within four weeks of vaccination:

- 1 a. That health care provider may not order or receive any vaccine from the North
2 Dakota immunization program until that provider submits all reports required
3 under this section.
- 4 b. The state department of health shall make a report to that health care provider's
5 occupational licensing entity outlining that provider's failure to comply with the
6 reporting requirements under this section.
- 7 3. Notwithstanding any other provision of law, a health care provider, elementary or
8 secondary school, early childhood facility, public or private postsecondary educational
9 institution, city or county board of health, district health unit, and the state health officer
10 may exchange immunization data in any manner with one another. Immunization data
11 that may be exchanged under this section is limited to the date and type of
12 immunization administered to a patient and may be exchanged regardless of the date
13 of the immunization.

14 4. The state department of health may not create, administer, provide, or contract for an
15 immunization certificate, such as a vaccine passport or an electronic
16 machine-readable code.

17 **Immunization data. (Effective after August 31, 2022)**

- 18 1. The department of health and human services may establish an immunization
19 information system and may require the childhood immunizations specified in
20 subsection 1 of section 23-07-17.1 and other information be reported to the
21 department. The department of health and human services may only require the
22 reporting of childhood immunizations and other data upon completion of the
23 immunization information reporting system. A health care provider who administers a
24 childhood immunization shall report the patient's identifying information, the
25 immunization that is administered, and other required information to the department.
26 The report must be submitted using electronic media, and must contain the data
27 content and use the format and codes specified by the department.
- 28 2. If a health care provider fails to submit an immunization report required under this
29 section within four weeks of vaccination:

- 1 a. That health care provider may not order or receive any vaccine from the North
- 2 Dakota immunization program until that provider submits all reports required
- 3 under this section.
- 4 b. The department of health and human services shall make a report to that health
- 5 care provider's occupational licensing entity outlining that provider's failure to
- 6 comply with the reporting requirements under this section.
- 7 3. Notwithstanding any other provision of law, a health care provider, elementary or
- 8 secondary school, early childhood facility, public or private postsecondary educational
- 9 institution, city or county board of health, district health unit, and the state health officer
- 10 may exchange immunization data in any manner with one another. Immunization data
- 11 that may be exchanged under this section is limited to the date and type of
- 12 immunization administered to a patient and may be exchanged regardless of the date
- 13 of the immunization.
- 14 4. The department of health and human services may not create, administer, provide, or
- 15 contract for an immunization certificate, such as a vaccine passport or an electronic
- 16 machine-readable code.

17 **SECTION 2. AMENDMENT.** Section 23-12-20 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **23-12-20. ~~Vaccine~~COVID-19 vaccination and infection information.**

- 20 1. ~~Except as provided under sections 15.1-23-02, 23-01-05.3, and 23-07-17.1,~~
- 21 ~~neither~~Neither a state government entity nor any of its political subdivisions, agents, or
- 22 assigns may:
 - 23 a. Require documentation, whether physical or electronic, for the purpose of
 - 24 certifying or otherwise communicating the following before providing access to
 - 25 ~~state~~ property, funds, or services:
 - 26 (1) An individual's COVID-19 vaccination status;
 - 27 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - 28 (3) An individual's COVID-19 post-transmission recovery status;
 - 29 b. Otherwise publish or share an individual's COVID-19 vaccination record or similar
 - 30 health information, except as specifically authorized by the individual or otherwise
 - 31 authorized by statute; or

- 1 c. Require a private business to obtain documentation, whether physical or
2 electronic, for purposes of certifying or otherwise communicating the following
3 before employment or providing access to property, funds, or services based on:
4 (1) An individual's COVID-19 vaccination status;
5 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
6 (3) An individual's COVID-19 post-transmission recovery status.
- 7 2. A private business located in this state may not require a patron or customer to
8 provide any documentation certifying COVID-19 vaccination, the presence of
9 COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission
10 recovery to gain access to, entry upon, or services from the business. ~~This subsection~~
11 ~~does not apply to a health care provider including a long term care provider.~~
- 12 3. This section may not be construed to interfere with an individual's rights to access that
13 individual's own personal health information or with a person's right to access personal
14 health information of others which the person otherwise has a right to access.
- 15 4. ~~Subsection 1 is not applicable to the state board of higher education, the university~~
16 ~~system, or institutions under the control of the state board of higher education to the~~
17 ~~extent the entity has adopted policies and procedures governing the type of~~
18 ~~documentation required, the circumstances under which such documentation may be~~
19 ~~shared, and exemptions from providing such documentation.~~
- 20 5. This section is not applicable during a public health disaster or emergency declared in
21 accordance with chapter 37-17.1.
- 22 6.5. ~~This section is limited in application to a vaccination authorized by the federal food and~~
23 ~~drug administration pursuant to an emergency use authorization~~~~does not apply to the~~
24 extent a federal law, rule, or guidance preempts application, or to the extent
25 application would result in a person incurring direct financial losses due to
26 noncompliance with the federal law, rule, or guidance.
- 27 6. As used in this section, the term "COVID-19" means severe acute respiratory
28 syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral
29 fragments of SARS-CoV-2.

30 **SECTION 3.** A new section to chapter 34-03 of the North Dakota Century Code is created
31 and enacted as follows:

1 **COVID-19 vaccination requirements - Exemptions.**

2 1. As used in this section, the term "COVID-19" means severe acute respiratory
3 syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral
4 fragments of SARS-CoV-2.

5 2. If an employer in this state requires an employee or prospective employee to be
6 vaccinated against COVID-19 as a condition of employment:

7 a. The employer shall allow the employee to submit proof of COVID-19 antibodies
8 as an exemption to the vaccination requirement. Such proof is valid for twelve
9 months from the date of the antibody test.

10 b. The employer shall allow the employee to submit to periodic COVID-19 tests as
11 an exemption to the vaccination requirement. Under this subdivision, the
12 employer may not require more than two tests per week but the employee may
13 be responsible for the cost of the testing.

14 c. The employer shall allow the employee to submit one of the following certificates
15 as an exemption to the vaccination requirement:

16 (1) A certificate from a licensed physician stating the physical condition of the
17 employee is such that immunization would endanger the life or health of the
18 employee; or

19 (2) A certificate signed by the employee stating the employee's religious,
20 philosophical, or moral beliefs are opposed to such immunization.

21 **SECTION 4. REPEAL.** Section 23-12-20 of the North Dakota Century Code and section ~~23~~
22 of this Act are repealed.

23 **SECTION 5. EFFECTIVE DATE.** Section ~~34~~ of this Act becomes effective August 1, 2023.
24 The remainder of this Act becomes effective upon its filing with the secretary of state.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 1, line 3, replace "section" with "sections 23-01-05.3 and"

Page 1, line 3, after "to" insert "vaccine passports and"

Page 1, after line 9, insert:

"SECTION 1. AMENDMENT. Section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.3. Immunization data. (Effective through August 31, 2022)

1. The state department of health may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The state department of health shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
4. The state department of health may not create, administer, provide, or contract for an immunization certificate, such as a vaccine passport or an electronic machine-readable code.

Immunization data. (Effective after August 31, 2022)

1. The department of health and human services may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The department of health and human services may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The department of health and human services shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
4. The department of health and human services may not create, administer, provide, or contract for an immunization certificate, such as a vaccine passport or an electronic machine-readable code."

Page 3, line 21, replace "2" with "3"

Page 3, line 23, replace "3" with "4"

Renumber accordingly