

Introduced by

Representative Weisz

(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 23-12-20 of the North Dakota Century Code, relating to limitations on requiring  
4 documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status; to  
5 repeal section 23-12-20 of the North Dakota Century Code and section 2 of this Act, relating to  
6 limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-  
7 transmission recovery status and employer-required COVID-19 vaccinations; and to provide an  
8 effective date.

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

10 **SECTION 1. AMENDMENT.** Section 23-12-20 of the North Dakota Century Code is  
11 amended and reenacted as follows:

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

- 13 1. ~~Except as provided under sections 15.1-23-02, 23-01-05.3, and 23-07-17.1,~~  
14 ~~neither~~Neither a state government entity nor any of its political subdivisions, agents, or  
15 assigns may:
- 16 a. Require documentation, whether physical or electronic, for the purpose of  
17 certifying or otherwise communicating the following before providing access to  
18 state property, funds, or services:
    - 19 (1) An individual's COVID-19 vaccination status;
    - 20 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
    - 21 (3) An individual's COVID-19 post-transmission recovery status;
  - 22 b. Otherwise publish or share an individual's COVID-19 vaccination record or similar  
23 health information, except as specifically authorized by the individual or otherwise  
24 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 2.** 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 3. REPEAL.** Section 23-12-20 of the North Dakota Century Code and section 2  
22      of this Act are repealed.

23      **SECTION 4. EFFECTIVE DATE.** Section 3 of this Act becomes effective August 1, 2023.  
24      The remainder of this Act becomes effective upon its filing with the secretary of state.