

**HOUSE BILL NO. 1301**

Introduced by

Representatives B. Koppelman, Hoverson, Kading, K. Koppelman, Rohr, Satrom

Senators Dever, Heitkamp, Kannianen, Myrdal

A BILL for an Act to provide for limits on access to vaccination status and records; to create and enact a new section to chapter 32-03 and a new section to chapter 34-01 of the North Dakota Century Code, relating to ~~employer~~civil immunity for communicable diseases and mandatory communicable disease immunizations; to provide a penalty; to provide for application; and to ~~provide for retroactive application~~declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:****SECTION 1.****Vaccination status or records.**

1. A person may not inquire about an individual's vaccination status or request access to an individual's vaccination records.
2. This section does not apply to a health care facility, health care provider, or to an entity required to comply with section 23-07-17.1. For purposes of this section, "health care facility" means any facility in which health care services are provided and includes a hospital, special care unit, skilled nursing facility, intermediate care facility, basic care facility, assisted living facility, ambulatory surgical center, freestanding emergency department, rural primary care hospital, critical access hospital, inpatient hospice facility, including a clinic not located on a hospital's primary campus, health maintenance organization, home health agency, any field hospital, modular field-treatment facility, and a diagnostic, examination, treatment, imaging, or rehabilitation center.

**SECTION 2.** A new section to chapter 32-03 of the North Dakota Century Code is created and enacted as follows:

**Employer immunityImmunity for communicable disease - Exceptions.**

1. As used in this section:

a. "Communicable disease" means an illness caused by a virus, bacteria, fungi, or parasite which is spread through contact with a contaminated surface, bodily fluid, blood product, insect bite, or skin contact, or through the air.

b. "Employee" means an individual who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied. The term includes an independent contractor.

~~c. "Employer" means the person that employs the employee.~~

2. Subject to subsection 3, ~~an employer~~ a person is immune from civil liability for damage, loss, or injury that results from an ~~employee~~ individual contracting, being exposed to, or potentially being exposed to a communicable disease ~~during the course of employment.~~

3. Immunity under subsection 2 does not apply to damage, loss, or injury caused by ~~an employer's~~:

a. A person's willful misconduct or infliction of harm; or

b. An immunization received by an employee or a prospective employee under section 3 of this Act.

**SECTION 3.** A new section to chapter 34-01 of the North Dakota Century Code is created and enacted as follows:

**Mandatory immunization prohibited - Penalty for violation - Exemption.**

1. As used in this section:

a. "Communicable disease" means an illness caused by a virus, bacteria, fungi, or parasite which is spread through contact with a contaminated surface, bodily fluid, blood product, insect bite, or skin contact, or through the air.

b. "Health care facility" means any facility in which health care services are provided and includes a hospital, special care unit, skilled nursing facility, intermediate care facility, basic care facility, assisted living facility, ambulatory surgical center, freestanding emergency department, rural primary care hospital, critical access hospital, inpatient hospice facility, including a clinic not located on a hospital's primary campus, health maintenance organization, home health agency, any field hospital, modular field-treatment facility, and a diagnostic, examination, treatment, imaging, or rehabilitation center.

2. Except as provided in subsection 3, an employer may not require an employee or a prospective employee to receive an immunization for the prevention of a communicable disease as a condition of retaining or obtaining employment. An employer that violates this section is guilty of an infraction.

3. A health care facility may require an employee or a prospective employee receive an immunization for the prevention of a communicable disease as a condition of retaining or obtaining employment if:

a. The required immunization is listed in the health care facility's written employment manual or policy;

b. The written employment manual or policy listing the required immunization is reviewed, updated, published, and issued to all employees on an annual basis; and

c. The employee or prospective employee does not object to the immunization for because of the employee's health; or the employee's religious, or philosophical reasons beliefs.

4. A health care facility may not require an employee or a prospective employee receive an immunization for the prevention of a communicable disease as a condition of retaining or obtaining employment if the immunization went through an expedited development and review process before being approved for distribution and use.

5. A health care facility may provide reasonable modifications to workplace policies, practices, procedures, or duties to an employee who objects to a required immunization as provided under subsection 3.

**SECTION 4. APPLICATION.** Section 42 of this Act applies to all civil actions filed after January 1, 2020, and applies to claims by an employee or former employee who knew or reasonably should have known about the contraction, exposure, or potential exposure to a communicable disease before the effective date of this Act.

~~**SECTION 4. RETROACTIVE APPLICATION.** Section 2 of this Act applies retroactively to an employer that has made immunization a condition of employment after December 31, 2020.~~

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.