

## HOUSE BILL NO. 1301

Introduced by

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

Senators Dever, Heitkamp, Kannianen, Myrdal

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

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 **SECTION 1.**

8 **Vaccination status or records.**

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

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

23 **Employer immunity****Immunity for communicable disease - Exceptions.**

- 24 1. As used in this section:

- 1           a. "Communicable disease" means an illness caused by a virus, bacteria, fungi, or  
2           parasite which is spread through contact with a contaminated surface, bodily  
3           fluid, blood product, insect bite, or skin contact, or through the air.  
4           b. "Employee" means an individual who performs a service for wages or other  
5           remuneration under a contract of hire, written or oral, express or implied. The  
6           term includes an independent contractor.  
7           ~~c. "Employer" means the person that employs the employee.~~  
8           2. Subject to subsection 3, ~~an employer~~ a person is immune from civil liability for damage,  
9           loss, or injury that results from an ~~employee~~ individual contracting, being exposed to, or  
10           potentially being exposed to a communicable disease during the course of  
11           employment.  
12           3. Immunity under subsection 2 does not apply to damage, loss, or injury caused by an  
13           employer's:  
14           a. A person's willful misconduct or infliction of harm; or  
15           b. An immunization received by an employee or a prospective employee under  
16           section 3 of this Act.

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

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

- 20           1. As used in this section:  
21           a. "Communicable disease" means an illness caused by a virus, bacteria, fungi, or  
22           parasite which is spread through contact with a contaminated surface, bodily  
23           fluid, blood product, insect bite, or skin contact, or through the air.  
24           b. "Health care facility" means any facility in which health care services are provided  
25           and includes a hospital, special care unit, skilled nursing facility, intermediate  
26           care facility, basic care facility, assisted living facility, ambulatory surgical center,  
27           freestanding emergency department, rural primary care hospital, critical access  
28           hospital, inpatient hospice facility, including a clinic not located on a hospital's  
29           primary campus, health maintenance organization, home health agency, any field  
30           hospital, modular field-treatment facility, and a diagnostic, examination,  
31           treatment, imaging, or rehabilitation center.



- 1       2. Except as provided in subsection 3, an employer may not require an employee or a  
2       prospective employee to receive an immunization for the prevention of a  
3       communicable disease as a condition of retaining or obtaining employment. An  
4       employer that violates this section is guilty of an infraction.
- 5       3. A~~Subject to subsection 4, a~~ health care facility may require an employee or a  
6       prospective employee receive an immunization for the prevention of a communicable  
7       disease as a condition of retaining or obtaining employment if:
- 8       a. The required immunization is listed in the health care facility's written  
9       employment manual or policy;
- 10       b. The written employment manual or policy listing the required immunization is  
11       reviewed, updated, published, and issued to all employees on an annual basis;  
12       and
- 13       c. The employee or prospective employee does not object to the immunization  
14       for~~because of the employee's health- or the employee's religious- or philosophical~~  
15       reasons beliefs.
- 16       4. A health care facility may not require an employee or a prospective employee receive  
17       an immunization for the prevention of a communicable disease as a condition of  
18       retaining or obtaining employment if the immunization went through an expedited  
19       development and review process before being approved for distribution and use.
- 20       5. A health care facility may provide reasonable modifications to workplace policies,  
21       practices, procedures, or duties to an employee who objects to a required  
22       immunization as provided under subsection 3.

23       **SECTION 4. APPLICATION.** Section 4~~2~~ of this Act applies to all civil actions filed after  
24       January 1, 2020, and applies to claims by an employee or former employee who knew or  
25       reasonably should have known about the contraction, exposure, or potential exposure to a  
26       communicable disease before the effective date of this Act.

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

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

