

HOUSE BILL NO. 1200

Introduced by

Representatives Hoverson, K. Anderson, Bellew, Christensen, Fisher, Meier, Prichard,
Schatz, VanWinkle

Senators Boehm, Clemens, Paulson

1 A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota
2 Century Code, relating to COVID-19 vaccinations and ~~experimental~~emergency-use authorized
3 vaccines for students at institutions of higher education; and to amend and reenact subsection 1
4 of section 23-07-17.1 ~~and section 23-12-20~~ of the North Dakota Century Code, relating to
5 school and day care immunizations ~~and COVID-19 vaccination and infection information~~.

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

7 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created
8 and enacted as follows:

9 **COVID-19 and ~~experimental~~emergency-use authorized vaccinations - Limitations.**

10 1. An institution under the control of the state board of higher education may not:

11 a. Require a student to be vaccinated against severe acute respiratory syndrome
12 coronavirus 2, identified as SARS-CoV-2 (COVID-19) or receive an
13 ~~experimental~~emergency-use authorized vaccine, as a condition of enrollment or
14 in-person attendance.

15 b. Promote student vaccination against COVID-19 or receipt of an
16 ~~experimental~~emergency-use authorized vaccine.

17 ~~2. As used in this section, "experimental vaccine" means a vaccine approved by the~~
18 ~~United States food and drug administration which does not meet each of the following~~
19 ~~criteria:~~

20 ~~a. The pivotal clinical trial the United States food and drug administration relied on~~
21 ~~to approve the vaccine evaluated the safety of the vaccine for at least one year~~
22 ~~after the vaccine was administered against a control group that received either a~~
23 ~~placebo or another vaccine that meets the criteria under this subsection.~~

1 ~~b. The department of health and human services has posted on the department's~~
2 ~~website the injuries or diseases caused by the vaccine and the rate at which the~~
3 ~~injury or disease occurs from the vaccine.~~

4 ~~c. The department of health and human services has determined the risk of~~
5 ~~permanent disability or death from the vaccine has been proven to be less than~~
6 ~~the risk caused by the infection the vaccine is intended to prevent.~~

7 ~~d. The vaccine's manufacturer has liability, including for design defect claims, for~~
8 ~~any death or injury caused by the vaccine.~~

9 **SECTION 2. AMENDMENT.** Subsection 1 of section 23-07-17.1 of the North Dakota
10 Century Code is amended and reenacted as follows:

- 11 1. A child may not be admitted to any public, private, or parochial school, or day care
12 center, child care facility, head start program, or nursery school operating in this state
13 or be supervised through home-based instruction unless the child's parent or guardian
14 presents to the institution authorities a certification from a licensed physician or
15 authorized representative of the department of health and human services that the
16 child has received age-appropriate immunization against diphtheria, pertussis,
17 tetanus, measles, rubella (German measles), mumps, hepatitis B, haemophilus
18 influenza type b (Hib), varicella (chickenpox), poliomyelitis, pneumococcal disease,
19 meningococcal disease, rotovirus, and hepatitis A. The immunizations required under
20 this section do not include the severe acute respiratory syndrome coronavirus 2,
21 identified as SARS-CoV-2 (COVID-19), vaccine. Any political subdivision, school,
22 department, or institution of higher education shall differentiate between
23 recommended and required vaccination on any form. An immunization listed under this
24 subsection is not required if the immunization is provided by an
25 experimental emergency-use authorized vaccine. In the case of a child receiving
26 home-based instruction, the child's parent or legal guardian shall file the certification
27 with the public school district in which the child resides. As used in this subsection,
28 "experimental vaccine" means a vaccine approved by the United States food and drug
29 administration which does not meet each of the following criteria:
30 ~~a. The pivotal clinical trial the United States food and drug administration relied on~~
31 ~~to approve the vaccine evaluated the safety of the vaccine for at least one year~~

~~after the vaccine was administered against a control group that received either a placebo or another vaccine that meets the criteria under this subsection.~~

~~b. The department of health and human services has posted on the department's website the injuries or diseases caused by the vaccine and the rate at which the injury or disease occurs from the vaccine.~~

~~c. The department of health and human services has determined the risk of permanent disability or death from the vaccine has been proven to be less than the risk caused by the infection the vaccine is intended to prevent.~~

~~d. The vaccine's manufacturer has liability, including for design defect claims, for any death or injury caused by the vaccine.~~

SECTION 3. AMENDMENT. Section 23-12-20 of the North Dakota Century Code is amended and reenacted as follows:

23-12-20. COVID-19 vaccination and infection information. (Repealed effective August 1, 2023~~2025~~)

1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:

a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:

(1) An individual's COVID-19 vaccination status;

(2) The presence of COVID-19 pathogens, antigens, or antibodies; or

(3) An individual's COVID-19 post-transmission recovery status;

b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or

c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:

(1) An individual's COVID-19 vaccination status;

(2) The presence of COVID-19 pathogens, antigens, or antibodies; or

(3) An individual's COVID-19 post-transmission recovery status.

- 1 2. Subsection 1 does not apply to the department of corrections and rehabilitation, a
2 correctional facility as defined under section 12-44.1-01, the state hospital, or a public
3 health unit.
- 4 3. A private business located in this state or doing business in this state may not require
5 a patron, client, or customer in this state to provide any documentation certifying
6 COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies,
7 or COVID-19 post-transmission recovery to gain access to, entry upon, or services
8 from the business. This subsection does not apply to a developmental disability
9 residential facility or a health care provider, including a long-term care provider, basic
10 care provider, and assisted living provider. As used in this subsection, a private
11 business does not include a nonprofit entity that does not sell a product or a service.
- 12 4. 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 5. 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 6. This section is not applicable during a public health disaster or emergency declared in
21 accordance with chapter 37-17.1.
- 22 7. As used in this section, the term "COVID-19" means severe acute respiratory
23 syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral
24 fragments of SARS-CoV-2.