

1-1 By: Kolkhorst S.B. No. 1024
 1-2 (In the Senate - Filed February 17, 2023; March 3, 2023,
 1-3 read first time and referred to Committee on Health & Human
 1-4 Services; April 17, 2023, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
 1-6 April 17, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Kolkhorst	X			
1-9 Perry	X			
1-10 Blanco	X			
1-11 Hall	X			
1-12 Hancock	X			
1-13 Hughes	X			
1-14 LaMantia			X	
1-15 Miles			X	
1-16 Sparks	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1024 By: Hughes

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to preventative health care and public health, including
 1-22 prohibited immunization and face-covering requirements and private
 1-23 business or school closures.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 38.001, Education Code, is amended by
 1-26 amending Subsections (a) and (b-1) and adding Subsection (b-2) to
 1-27 read as follows:

1-28 (a) ~~Except as provided by Subsection (c), each~~ [Each]
 1-29 student shall be fully immunized against the diseases listed in
 1-30 Section 161.004, Health and Safety Code ~~[diphtheria, rubella,~~
 1-31 ~~rubella, mumps, tetanus, and poliomyelitis, except as provided by~~
 1-32 ~~Subsection (c)].~~

1-33 (b-1) Each year, the Department of State Health Services
 1-34 shall prepare a list of the immunizations required ~~[under this~~
 1-35 ~~section]~~ for admission to public schools ~~[and of any additional~~
 1-36 ~~immunizations the department recommends for school-age children].~~
 1-37 The department shall prepare the list in English and Spanish and
 1-38 make the list available in a manner that permits a school district
 1-39 to easily post the list on the district's Internet website as
 1-40 required by Section 38.019.

1-41 (b-2) An elementary or secondary school may not require a
 1-42 student, as a condition of the student's admission to or continued
 1-43 enrollment in the school, to be vaccinated against the 2019 novel
 1-44 coronavirus disease (COVID-19).

1-45 SECTION 2. Section 38.019(a), Education Code, is amended to
 1-46 read as follows:

1-47 (a) A school district that maintains an Internet website
 1-48 shall post prominently on the website:

1-49 (1) a list, in English and Spanish, of:

1-50 (A) the immunizations required for admission to
 1-51 public school in accordance with ~~[by rules of the Department of~~
 1-52 ~~State Health Services adopted under]~~ Section 38.001; and

1-53 (B) ~~[any immunizations or vaccines recommended~~
 1-54 ~~for public school students by the Department of State Health~~
 1-55 ~~Services; and~~

1-56 ~~[(C)]~~ health clinics in the district that offer
 1-57 the influenza vaccine, to the extent those clinics are known to the
 1-58 district; and

1-59 (2) a link to the page on the Department of State
 1-60 Health Services Internet website that provides ~~[where a person may~~

2-1 ~~obtain~~] information relating to the procedures for claiming an
2-2 exemption from the immunization requirements of Section 38.001.

2-3 SECTION 3. Subchapter 2, Chapter 51, Education Code, is
2-4 amended by adding Section 51.91921 to read as follows:

2-5 Sec. 51.91921. PROHIBITION ON PRIVATE OR INDEPENDENT
2-6 INSTITUTIONS OF HIGHER EDUCATION MANDATING COVID-19 VACCINATION
2-7 FOR STUDENTS. (a) In this section:

2-8 (1) "COVID-19" means the 2019 novel coronavirus
2-9 disease, including any variant.

2-10 (2) "Private or independent institution of higher
2-11 education" has the meaning assigned by Section 61.003.

2-12 (b) A private or independent institution of higher
2-13 education may not require a student, as a condition of the student's
2-14 admission to or continued enrollment in the institution, to be
2-15 vaccinated against COVID-19.

2-16 SECTION 4. Section 51.933, Education Code, is amended by
2-17 amending Subsections (b) and (b-1) and adding Subsection (b-2) to
2-18 read as follows:

2-19 (b) The executive commissioner of the Health and Human
2-20 Services Commission may require a student at an institution of
2-21 higher education who is pursuing a course of study in a human or
2-22 animal health profession to be immunized ~~[immunizations]~~ against
2-23 the diseases listed in Subsection (a) and against hepatitis B,
2-24 measles, rabies, and varicella, as applicable. ~~The [additional~~
2-25 ~~diseases for students at any institution of higher education who~~
2-26 ~~are pursuing a course of study in a human or animal health~~
2-27 ~~profession, and the] executive commissioner may require those~~
2-28 immunizations for any students in times of an emergency or epidemic
2-29 in a county where the commissioner of state health services has
2-30 declared such an emergency or epidemic.

2-31 (b-1) A requirement ~~[rule adopted]~~ under Subsection (b) for
2-32 ~~[that requires]~~ a student to be immunized against hepatitis B
2-33 ~~[vaccination for students]~~ may apply only to students enrolled in a
2-34 course of study that involves potential exposure to human or animal
2-35 blood or bodily fluids.

2-36 (b-2) An institution of higher education may not require a
2-37 student, as a condition of the student's admission to or continued
2-38 enrollment in the institution, to be vaccinated against COVID-19 as
2-39 defined by Section 51.91921.

2-40 SECTION 5. Sections 81.023(a) and (c), Health and Safety
2-41 Code, are amended to read as follows:

2-42 (a) The executive commissioner may recommend to the
2-43 legislature immunizations to include on the list of immunizations
2-44 required ~~[department shall develop immunization requirements]~~ for
2-45 children under Section 161.004.

2-46 (c) The department shall cooperate with the State Board of
2-47 Education in ~~[formulating and]~~ implementing immunization
2-48 requirements for students admitted to public or private primary or
2-49 secondary schools.

2-50 SECTION 6. Subtitle D, Title 2, Health and Safety Code, is
2-51 amended by adding Chapter 81B to read as follows:

2-52 CHAPTER 81B. PROHIBITED CORONAVIRUS PREVENTATIVE MEASURES

2-53 Sec. 81B.001. DEFINITIONS. In this chapter:

2-54 (1) "COVID-19" means the 2019 novel coronavirus
2-55 disease and any variants of the disease.

2-56 (2) "Governmental entity" means this state, a local
2-57 government entity as defined by Section 418.004, Government Code,
2-58 or an agency of this state or a local government entity.

2-59 Sec. 81B.002. PROHIBITED FACE-COVERING MANDATE.
2-60 Notwithstanding any other law, including Chapter 81 of this code
2-61 and Chapter 418, Government Code, a governmental entity may not
2-62 implement, order, or otherwise impose a mandate requiring a person
2-63 to wear a face mask or other face covering to prevent the spread of
2-64 COVID-19.

2-65 Sec. 81B.003. PROHIBITED VACCINE MANDATE. Notwithstanding
2-66 any other law, including Chapter 81 of this code and Chapter 418,
2-67 Government Code, a governmental entity may not implement, order, or
2-68 otherwise impose a mandate requiring a person to be vaccinated
2-69 against COVID-19.

3-1 Sec. 81B.004. PROHIBITED CLOSURE MANDATE FOR PRIVATE
3-2 BUSINESSES AND SCHOOLS. Notwithstanding any other law, including
3-3 Chapter 81 of this code and Chapter 418, Government Code, a
3-4 governmental entity may not implement, order, or otherwise impose a
3-5 mandate requiring the closure of a private business, public school,
3-6 open-enrollment charter school, or private school to prevent the
3-7 spread of COVID-19.

3-8 SECTION 7. Section 161.004(a), Health and Safety Code, is
3-9 amended to read as follows:

3-10 (a) Every child in the state shall be immunized against
3-11 diphtheria, hepatitis A, hepatitis B, measles, meningococcal
3-12 disease, mumps, pertussis, polio, rubella, tetanus, and varicella
3-13 [vaccine preventable diseases caused by infectious agents] in
3-14 accordance with the [immunization] schedule prescribed [adopted]
3-15 in department rules. The executive commissioner may not require
3-16 immunizations against any additional diseases for students
3-17 admitted to a public or private primary or secondary school.

3-18 SECTION 8. Subtitle H, Title 2, Health and Safety Code, is
3-19 amended by adding Chapter 174 to read as follows:

3-20 CHAPTER 174. PATIENT RIGHTS

3-21 Sec. 174.001. DEFINITIONS. In this chapter:

3-22 (1) "COVID-19" has the meaning assigned by Section
3-23 81B.001.

3-24 (2) "Health care facility" means a hospital,
3-25 freestanding emergency medical care facility, urgent care or retail
3-26 clinic, outpatient clinic, birthing center, ambulatory surgical
3-27 center, or other facility that is licensed to provide health care
3-28 services in this state.

3-29 Sec. 174.002. PROHIBITED DISCRIMINATION BASED ON COVID-19
3-30 VACCINATION STATUS. (a) Except as provided by Subsection (b), a
3-31 health care facility may not refuse to provide health care services
3-32 to an individual based on the individual's vaccination status or
3-33 post-transmission recovery of COVID-19.

3-34 (b) The prohibition under Subsection (a) does not apply to a
3-35 hospital that requires a COVID-19 vaccination in relation to
3-36 oncology or transplant care.

3-37 Sec. 174.003. MEDICAID REIMBURSEMENT PROHIBITED. (a) The
3-38 commission:

3-39 (1) may not provide Medicaid reimbursement to a health
3-40 care facility that violates this chapter; and

3-41 (2) shall disenroll the facility from participation as
3-42 a Medicaid provider.

3-43 (b) The executive commissioner may adopt rules as necessary
3-44 to implement this section.

3-45 SECTION 9. Chapter 21, Labor Code, is amended by adding
3-46 Subchapter H-1 to read as follows:

3-47 SUBCHAPTER H-1. DISCRIMINATION BASED ON COVID-19 VACCINATION
3-48 STATUS

3-49 Sec. 21.421. DEFINITION. In this subchapter, "COVID-19"
3-50 has the meaning assigned by Section 81B.001, Health and Safety
3-51 Code.

3-52 Sec. 21.422. PROHIBITED DISCRIMINATION BASED ON COVID-19
3-53 VACCINATION STATUS. (a) Except as provided by Subsection (d), an
3-54 employer commits an unlawful employment practice if the employer
3-55 fails or refuses to hire, discharges, or otherwise discriminates
3-56 against an individual with respect to the compensation or the
3-57 terms, conditions, or privileges of employment because the
3-58 individual has not been vaccinated against COVID-19.

3-59 (b) A labor organization commits an unlawful employment
3-60 practice if the labor organization excludes or expels from
3-61 membership or otherwise discriminates against an individual
3-62 because the individual has not been vaccinated against COVID-19.

3-63 (c) An employment agency commits an unlawful employment
3-64 practice if the employment agency classifies or refers for
3-65 employment, fails or refuses to refer for employment, or otherwise
3-66 discriminates against an individual because the individual has not
3-67 been vaccinated against COVID-19.

3-68 (d) This section does not apply to:

3-69 (1) a health care facility, as defined by Section

4-1 224.001, Health and Safety Code, that:
4-2 (A) implements a policy or procedure to exempt
4-3 from a required vaccination an individual described by this section
4-4 who has a medical condition identified as a contraindication or
4-5 precaution to the vaccination by the Centers for Disease Control
4-6 and Prevention;
4-7 (B) establishes procedures that an exempt
4-8 individual is required to follow to protect facility patients from
4-9 exposure to disease, including the use of gloves, face masks, or
4-10 other protective medical equipment, based on the level of risk the
4-11 individual presents to patients by the individual's routine and
4-12 direct exposure to patients; and
4-13 (C) prohibits discrimination or retaliatory
4-14 action against an exempt individual, except that the required use
4-15 of protective medical equipment under Paragraph (B) is not
4-16 considered a retaliatory action for purposes of this paragraph; or
4-17 (2) a private employer that:
4-18 (A) implements a policy or procedure to exempt
4-19 from a required vaccination an individual described by this section
4-20 based on reasons of conscience or because the individual has a
4-21 medical condition identified as a contraindication or precaution to
4-22 the vaccination by the Centers for Disease Control and Prevention;
4-23 (B) establishes procedures that an exempt
4-24 individual is required to follow to protect employees and other
4-25 individuals from exposure to disease, including the use of gloves,
4-26 face masks, or other protective medical equipment, based on the
4-27 level of risk the individual presents to employees and other
4-28 individuals by the individual's routine and direct exposure to
4-29 employees and other individuals; and
4-30 (C) prohibits discrimination or retaliatory
4-31 action against an exempt individual, except that the required use
4-32 of protective medical equipment under Paragraph (B) is not
4-33 considered a retaliatory action for purposes of this paragraph.
4-34 SECTION 10. Section 38.001(b), Education Code, as amended
4-35 by Chapters 43 (H.B. 1098) and 94 (H.B. 1059), Acts of the 80th
4-36 Legislature, Regular Session, 2007, is repealed.
4-37 SECTION 11. (a) The changes in law made by this Act to
4-38 Title 2, Education Code, apply beginning with the 2023-2024 school
4-39 year.
4-40 (b) The changes in law made by this Act to Title 3, Education
4-41 Code, apply beginning with the 2023-2024 academic year.
4-42 SECTION 12. Subchapter H-1, Chapter 21, Labor Code, as
4-43 added by this Act, applies only to an unlawful employment practice
4-44 that occurs on or after the effective date of this Act.
4-45 SECTION 13. If before implementing any provision of this
4-46 Act a state agency determines that a waiver or authorization from a
4-47 federal agency is necessary for implementation of that provision,
4-48 the agency affected by the provision shall request the waiver or
4-49 authorization and may delay implementing that provision until the
4-50 waiver or authorization is granted.
4-51 SECTION 14. This Act takes effect immediately if it
4-52 receives a vote of two-thirds of all the members elected to each
4-53 house, as provided by Section 39, Article III, Texas Constitution.
4-54 If this Act does not receive the vote necessary for immediate
4-55 effect, this Act takes effect September 1, 2023.

4-56 * * * * *