

By: Kolchorst, Middleton

S.B. No. 1024

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

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

(b-2) An elementary or secondary school may not require a student, as a condition of the student's admission to or continued enrollment in the school, to be vaccinated against the 2019 novel

1 coronavirus disease (COVID-19).

2 SECTION 2. Section 38.019(a), Education Code, is amended to
3 read as follows:

4 (a) A school district that maintains an Internet website
5 shall post prominently on the website:

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

7 (A) the immunizations required for admission to
8 public school in accordance with [~~by rules of the Department of~~
9 ~~State Health Services adopted under~~] Section 38.001; and

10 (B) [~~any immunizations or vaccines recommended~~
11 ~~for public school students by the Department of State Health~~
12 ~~Services; and~~

13 [~~(C)~~] health clinics in the district that offer
14 the influenza vaccine, to the extent those clinics are known to the
15 district; and

16 (2) a link to the page on the Department of State
17 Health Services Internet website that provides [~~where a person may~~
18 ~~obtain~~] information relating to the procedures for claiming an
19 exemption from the immunization requirements of Section 38.001.

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

22 Sec. 51.91921. PROHIBITION ON PRIVATE OR INDEPENDENT
23 INSTITUTIONS OF HIGHER EDUCATION MANDATING COVID-19 VACCINATION
24 FOR STUDENTS. (a) In this section:

25 (1) "COVID-19" means the 2019 novel coronavirus
26 disease, including any variant.

27 (2) "Private or independent institution of higher

1 education" has the meaning assigned by Section 61.003.

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

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

9 (b) The executive commissioner of the Health and Human
10 Services Commission may require a student at an institution of
11 higher education who is pursuing a course of study in a human or
12 animal health profession to be immunized ~~[immunizations]~~ against
13 the diseases listed in Subsection (a) and against hepatitis B,
14 measles, rabies, and varicella, as applicable. The ~~[additional~~
15 ~~diseases for students at any institution of higher education who~~
16 ~~are pursuing a course of study in a human or animal health~~
17 ~~profession, and the]~~ executive commissioner may require those
18 immunizations for any students in times of an emergency or epidemic
19 in a county where the commissioner of state health services has
20 declared such an emergency or epidemic.

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

26 (b-2) An institution of higher education may not require a
27 student, as a condition of the student's admission to or continued

1 enrollment in the institution, to be vaccinated against COVID-19 as
2 defined by Section 51.91921.

3 SECTION 5. Sections 81.023(a) and (c), Health and Safety
4 Code, are amended to read as follows:

5 (a) The executive commissioner may recommend to the
6 legislature immunizations to include on the list of immunizations
7 required [~~department shall develop immunization requirements~~] for
8 children under Section 161.004.

9 (c) The department shall cooperate with the State Board of
10 Education in [~~formulating and~~] implementing immunization
11 requirements for students admitted to public or private primary or
12 secondary schools.

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

15 CHAPTER 81B. PROHIBITED CORONAVIRUS PREVENTATIVE MEASURES

16 Sec. 81B.001. DEFINITIONS. In this chapter:

17 (1) "COVID-19" means the 2019 novel coronavirus
18 disease and any variants of the disease.

19 (2) "Governmental entity" means this state, a local
20 government entity as defined by Section 418.004, Government Code,
21 or an agency of this state or a local government entity.

22 Sec. 81B.002. PROHIBITED FACE-COVERING MANDATE.

23 Notwithstanding any other law, including Chapter 81 of this code
24 and Chapter 418, Government Code, a governmental entity may not
25 implement, order, or otherwise impose a mandate requiring a person
26 to wear a face mask or other face covering to prevent the spread of
27 COVID-19.

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

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

13 SECTION 7. Section 161.004(a), Health and Safety Code, is
14 amended to read as follows:

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

23 SECTION 8. Subtitle H, Title 2, Health and Safety Code, is
24 amended by adding Chapter 174 to read as follows:

25 CHAPTER 174. PATIENT RIGHTS

26 Sec. 174.001. DEFINITIONS. In this chapter:

27 (1) "COVID-19" has the meaning assigned by Section

1 81B.001.

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

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

12 (b) The prohibition under Subsection (a) does not apply to a
13 hospital that requires a COVID-19 vaccination in relation to
14 oncology or transplant care.

15 Sec. 174.003. MEDICAID REIMBURSEMENT PROHIBITED. (a) The
16 commission:

17 (1) may not provide Medicaid reimbursement to a health
18 care facility that violates this chapter; and

19 (2) shall disenroll the facility from participation as
20 a Medicaid provider.

21 (b) The executive commissioner may adopt rules as necessary
22 to implement this section.

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

25 SUBCHAPTER H-1. DISCRIMINATION BASED ON COVID-19 VACCINATION
26 STATUS

27 Sec. 21.421. DEFINITION. In this subchapter, "COVID-19"

1 has the meaning assigned by Section 81B.001, Health and Safety
2 Code.

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

10 (b) A labor organization commits an unlawful employment
11 practice if the labor organization excludes or expels from
12 membership or otherwise discriminates against an individual
13 because the individual has not been vaccinated against COVID-19.

14 (c) An employment agency commits an unlawful employment
15 practice if the employment agency classifies or refers for
16 employment, fails or refuses to refer for employment, or otherwise
17 discriminates against an individual because the individual has not
18 been vaccinated against COVID-19.

19 (d) This section does not apply to:

20 (1) a health care facility, as defined by Section
21 224.001, Health and Safety Code, that:

22 (A) implements a policy or procedure to exempt
23 from a required vaccination an individual described by this section
24 who has a medical condition identified as a contraindication or
25 precaution to the vaccination by the Centers for Disease Control
26 and Prevention;

27 (B) establishes procedures that an exempt

1 individual is required to follow to protect facility patients from
2 exposure to disease, including the use of gloves, face masks, or
3 other protective medical equipment, based on the level of risk the
4 individual presents to patients by the individual's routine and
5 direct exposure to patients; and

6 (C) prohibits discrimination or retaliatory
7 action against an exempt individual, except that the required use
8 of protective medical equipment under Paragraph (B) is not
9 considered a retaliatory action for purposes of this paragraph; or

10 (2) a private employer that:

11 (A) implements a policy or procedure to exempt
12 from a required vaccination an individual described by this section
13 based on reasons of conscience or because the individual has a
14 medical condition identified as a contraindication or precaution to
15 the vaccination by the Centers for Disease Control and Prevention;

16 (B) establishes procedures that an exempt
17 individual is required to follow to protect employees and other
18 individuals from exposure to disease, including the use of gloves,
19 face masks, or other protective medical equipment, based on the
20 level of risk the individual presents to employees and other
21 individuals by the individual's routine and direct exposure to
22 employees and other individuals; and

23 (C) prohibits discrimination or retaliatory
24 action against an exempt individual, except that the required use
25 of protective medical equipment under Paragraph (B) is not
26 considered a retaliatory action for purposes of this paragraph.

27 SECTION 10. Section 38.001(b), Education Code, as amended

1 by Chapters 43 (H.B. 1098) and 94 (H.B. 1059), Acts of the 80th
2 Legislature, Regular Session, 2007, is repealed.

3 SECTION 11. (a) The changes in law made by this Act to
4 Title 2, Education Code, apply beginning with the 2023-2024 school
5 year.

6 (b) The changes in law made by this Act to Title 3, Education
7 Code, apply beginning with the 2023-2024 academic year.

8 SECTION 12. Subchapter H-1, Chapter 21, Labor Code, as
9 added by this Act, applies only to an unlawful employment practice
10 that occurs on or after the effective date of this Act.

11 SECTION 13. If before implementing any provision of this
12 Act a state agency determines that a waiver or authorization from a
13 federal agency is necessary for implementation of that provision,
14 the agency affected by the provision shall request the waiver or
15 authorization and may delay implementing that provision until the
16 waiver or authorization is granted.

17 SECTION 14. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2023.