

By: Kolkhorst

S.B. No. 1024

A BILL TO BE ENTITLED

AN ACT

relating to preventative health care and public health; authorizing
a civil penalty.

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
coronavirus disease (COVID-19).

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

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

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

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

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

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

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

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

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

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

26 (2) "Private or independent institution of higher
27 education" has the meaning assigned by Section 61.003.

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

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

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

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

25 (b-2) An institution of higher education may not require a
26 student, as a condition of the student's admission to or continued
27 enrollment in the institution, to be vaccinated against COVID-19 as

1 defined by Section 51.91921.

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

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

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

12 SECTION 6. Section 161.004(a), Health and Safety Code, is
13 amended to read as follows:

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

22 SECTION 7. Subchapter A, Chapter 161, Health and Safety
23 Code, is amended by adding Sections 161.0086 and 161.0087 to read as
24 follows:

25 Sec. 161.0086. ADVERSE EVENT REPORTING SYSTEM FOR VACCINES
26 AND BOOSTER DOSES. (a) In this section, "health care practitioner"
27 means an individual licensed or otherwise authorized by this state

1 to administer vaccines.

2 (b) The department shall establish and maintain on the
3 department's Internet website a publicly accessible reporting
4 system to track adverse events following the administration of a
5 vaccine or booster dose of that vaccine. The reporting system must:

6 (1) enable health care practitioners and other
7 individuals to submit information in accordance with this section;
8 and

9 (2) be maintained separately from the immunization
10 registry or any other statewide registry for tracking immunization
11 information.

12 (c) A health care practitioner who administers a vaccine or
13 booster dose of that vaccine to a patient shall submit to the
14 reporting system information on any adverse event the patient
15 experiences following the administration of the vaccine or booster
16 dose, regardless of whether the vaccine or booster dose caused the
17 adverse event.

18 (d) An individual who obtains a vaccine or booster dose of
19 that vaccine may report to the reporting system information on any
20 adverse event the individual experiences following the
21 administration of the vaccine or booster dose, regardless of
22 whether the vaccine or booster dose caused the adverse event.

23 (e) The appropriate licensing authority may impose
24 disciplinary action, including an administrative penalty, on a
25 health care practitioner who violates this section in the same
26 manner and using the same procedures as the authority uses to impose
27 disciplinary action on a health care practitioner who violates the

1 authority's licensing or other regulatory laws or rules.

2 (f) The executive commissioner shall adopt rules necessary
3 to implement this section, including rules to ensure that
4 information accessible through the reporting system does not
5 disclose personally identifiable information or information that
6 is confidential under state or federal law.

7 Sec. 161.0087. PROHIBITION ON POLITICAL SUBDIVISIONS
8 MANDATING COVID-19 VACCINATIONS. (a) In this section, "COVID-19"
9 means the 2019 novel coronavirus disease, including any variant.

10 (b) Notwithstanding any other law, including Chapter 81 of
11 this code and Chapter 418, Government Code, a political subdivision
12 of this state may not issue an order, adopt an ordinance, or
13 otherwise require an individual to be vaccinated against COVID-19.

14 SECTION 8. Chapter 161, Health and Safety Code, is amended
15 by adding Subchapter X to read as follows:

16 SUBCHAPTER X. PROHIBITION ON MANDATED PREVENTATIVE CARE

17 Sec. 161.701. PROHIBITION ON FACE MASK REQUIREMENT. (a) A
18 governmental entity or a private entity that accepts any state
19 money may not require a person to wear a face mask or covering to
20 prevent the spread of a communicable disease.

21 (b) The Texas Education Agency shall adopt rules to prohibit
22 a private or public primary or secondary school from requiring a
23 student, teacher, other school employee, parent, or visitor to wear
24 a face mask or covering to prevent the spread of a communicable
25 disease.

26 Sec. 161.702. CIVIL PENALTY. (a) A governmental entity or
27 private entity that violates Section 161.701 is subject to a civil

1 penalty in an amount not to exceed \$2,000 per day for each
2 violation.

3 (b) The attorney general may sue to collect the penalty
4 under this section and may recover reasonable expenses incurred in
5 collecting the penalty, including court costs, reasonable
6 attorney's fees, investigative costs, witness fees, and deposition
7 costs.

8 (c) Sovereign and governmental immunity to suit is waived
9 and abolished to the extent of liability created by this section.

10 SECTION 9. Subtitle H, Title 2, Health and Safety Code, is
11 amended by adding Chapter 174 to read as follows:

12 CHAPTER 174. PATIENT RIGHTS

13 Sec. 174.001. DEFINITION. In this chapter, "health care
14 facility" means a hospital, freestanding emergency medical care
15 facility, urgent care or retail clinic, outpatient clinic, birthing
16 center, ambulatory surgical center, or other facility that is
17 licensed to provide health care services in this state.

18 Sec. 174.002. PROHIBITED DISCRIMINATION BASED ON
19 VACCINATION STATUS. A health care facility may not refuse to
20 provide health care services to an individual based on the
21 individual's vaccination status or post-transmission recovery of a
22 communicable disease.

23 Sec. 174.003. MEDICAID REIMBURSEMENT PROHIBITED. (a) The
24 commission:

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

27 (2) shall disenroll the facility from participation as

1 a Medicaid provider.

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

4 SECTION 10. Chapter 21, Labor Code, is amended by adding
5 Subchapter H-1 to read as follows:

6 SUBCHAPTER H-1. DISCRIMINATION BASED ON COVID-19 VACCINATION
7 STATUS

8 Sec. 21.421. DEFINITION. In this subchapter, "COVID-19"
9 has the meaning assigned by Section 161.0087, Health and Safety
10 Code.

11 Sec. 21.422. PROHIBITED DISCRIMINATION BASED ON COVID-19
12 VACCINATION STATUS. (a) An employer commits an unlawful
13 employment practice if the employer fails or refuses to hire,
14 discharges, or otherwise discriminates against an individual with
15 respect to the compensation or the terms, conditions, or privileges
16 of employment because the individual has not been vaccinated
17 against COVID-19.

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

22 (c) An employment agency commits an unlawful employment
23 practice if the employment agency classifies or refers for
24 employment, fails or refuses to refer for employment, or otherwise
25 discriminates against an individual because the individual has not
26 been vaccinated against COVID-19.

27 SECTION 11. The following provisions are repealed:

1 (1) Section 38.001(b), Education Code, as amended by
2 Chapters 43 (H.B. 1098) and 94 (H.B. 1059), Acts of the 80th
3 Legislature, Regular Session, 2007; and

4 (2) Section 38.001(f), Education Code.

5 SECTION 12. If before implementing any provision of this
6 Act a state agency determines that a waiver or authorization from a
7 federal agency is necessary for implementation of that provision,
8 the agency affected by the provision shall request the waiver or
9 authorization and may delay implementing that provision until the
10 waiver or authorization is granted.

11 SECTION 13. (a) The changes in law made by this Act to
12 Title 2, Education Code, apply beginning with the 2023-2024 school
13 year.

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

16 SECTION 14. Subchapter H-1, Chapter 21, Labor Code, as
17 added by this Act, applies only to an unlawful employment practice
18 that occurs on or after the effective date of this Act.

19 SECTION 15. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect September 1, 2023.