

SENATE BILL NO. 474

INTRODUCED BY D. EMRICH, V. RICCI

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ACCEPTANCE OF RELIGIOUS EXEMPTIONS AND PERSONAL MEDICAL EXEMPTIONS TO REQUIRED IMMUNIZATIONS; PROVIDING RELIEF FOR VIOLATIONS OF RELIGIOUS EXEMPTIONS; PROVIDING A DEFINITION; AMENDING SECTION 20-5-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Acceptance of religious exemptions to immunizations required -- immunity -- definition. (1) For the purposes of this chapter, discrimination on the basis of religion includes denials of requests for an exemption from an otherwise required immunization as defined in 20-5-402 based on the individual's religion.

(2) A person that accepts an individual's religious exemption from an immunization is not liable for civil damages from an injury arising out of the individual's nonimmunized status.

NEW SECTION. Section 2. Acceptance of religious exemption from immunization. For the purposes of this chapter, discrimination on the basis of religion includes denials of requests for an exemption from an otherwise required immunization based on the individual's religion.

Section 3. Section 20-5-405, MCA, is amended to read:

"20-5-405. Exemptions -- limitations on agency actions. (1) (a) There is a religious exemption to the immunizations required under 20-5-403. A person enrolled or seeking to enroll in school may attend the school without obtaining the immunizations required under 20-5-403 if the person files with the governing authority an a notarized affidavit on a form prescribed by the department stating that immunization is contrary to the ~~religious tenets and practices of the signer~~ person's religion.

(b) The statement must be signed:

- 1 (i) by the person enrolled or seeking to enroll in the school, if the person is an adult; or
- 2 (ii) if the person is a minor, by a parent, guardian, or adult who has the responsibility for the care
- 3 and custody of the minor.
- 4 (c) The statement must be maintained as part of the person's immunization records.
- 5 (2) (a) There is a medical exemption to the immunizations required under 20-5-403. A person
- 6 enrolled or seeking to enroll in school may attend the school without obtaining the immunizations if a written
- 7 medical exemption statement signed by a health care provider specified in subsection (2)(c) is filed with the
- 8 governing authority. The medical exemption statement must:
- 9 (i) attest that the physical condition of the person enrolled or seeking to enroll in school or the
- 10 medical circumstances relating to the person indicate that some or all of the required immunizations are not
- 11 considered safe; and
- 12 (ii) indicate the specific nature and probable duration of the medical condition or circumstances
- 13 that contraindicate immunization.
- 14 (b) The person is exempt from the requirements of this part to the extent indicated by the medical
- 15 exemption statement.
- 16 (c) The medical exemption statement must be signed by a person who:
- 17 (i) is licensed, certified, or otherwise authorized by the laws of any state or Canada to provide
- 18 health care as defined in 50-16-504;
- 19 (ii) is authorized within the person's scope of practice to administer the immunizations to which the
- 20 exemption applies; and
- 21 (iii) has previously provided health care to the person seeking the exemption or has administered
- 22 an immunization to which the person seeking an exemption has had an adverse reaction.
- 23 (3) There is a personal medical exemption to the immunizations required under 20-5-403. A
- 24 person enrolled or seeking to enroll in school may attend the school without obtaining the immunizations if a
- 25 written personal medical exemption statement signed by the person is filed with the governing authority. The
- 26 personal medical exemption statement must:
- 27 (a) be a notarized affidavit on a form prescribed by the department;
- 28 (b) specify the immunizations required under 20-5-403 for which the person is filing an exemption;

1 (c) include a declaration that the person has consulted with a health care provider and has
 2 obtained from the health care provider information on the potential risks and benefits of each immunization for
 3 which the person is filing an exemption; and

4 (d) be signed by:

5 (i) the person enrolled or seeking to enroll in the school, if the person is an adult; or

6 (ii) if the person is a minor, by a parent, guardian, or adult who has the responsibility for the care
 7 and custody of the minor.

8 ~~(3)~~ (4) (a) The department may not require an exemption form under this section that imposes
 9 requirements that are more burdensome or otherwise in excess of the requirements described in this section. A
 10 form prescribed by the department that contains requirements not expressly described in this section is void to
 11 the extent that it purports to impose requirements not included in this section.

12 (b) A governing authority may not deny an exemption on the basis that a person has not
 13 completed portions of the exemption form that are void under this subsection ~~(3)~~ (4).

14 (c) The department is not authorized to review a completed medical exemption statement or
 15 medical exemption form for the purpose of granting or denying a medical exemption.

16 (d) An exemption statement or form under this section must be maintained as part of the person's
 17 immunization records and may not be photocopied or otherwise duplicated for use by a third party without the
 18 permission of the student's parent or, if the student is an adult, the written consent of the student.

19 ~~(4)~~ (5) Whenever there is good cause to believe that a person for whom an exemption has been filed
 20 under this section has a disease or has been exposed to a disease listed in 20-5-403 or will as the result of
 21 school attendance be exposed to the disease, the person may be excluded from the school by the local health
 22 officer or the department until the excluding authority is satisfied that the person no longer risks contracting or
 23 transmitting that disease."

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 25 **NEW SECTION. Section 4. Codification instruction.** (1) [Section 1] is intended to be codified as an
 26 integral part of Title 49, chapter 2, part 3, and the provisions of Title 49, chapter 2, part 3, apply to [section 1].

27 (2) [Section 2] is intended to be codified as an integral part of Title 49, chapter 2, part 1, and the
 28 provisions of Title 49, chapter 2, part 1, apply to [section 2].

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2 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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