

Amendment - 1st Reading-white (H) Human Services

- 2023

68th Legislature 2023

Drafter: Milly Allen, 406-444-9280

HB0715.001.005

HOUSE BILL NO. 715

INTRODUCED BY J. CARLSON, J. SCHILLINGER, S. GIST, K. ZOLNIKOV, B. MITCHELL, J. HINKLE, N. NICOL, B. LER, A. REGIER, K. SEEKINS-CROWE, F. NAVE, R. MARSHALL, C. HINKLE, J. READ, M. HOPKINS, M. YAKAWICH, B. BROWN, J. FULLER, K. REGIER, S. HINEBAUCH, T. MCGILLVRAY, B. USHER, M. NOLAND, D. LENZ, D. BARTEL, G. HERTZ, J. ELLSWORTH, K. BOGNER, G. KMETZ, J. ETCHART, J. TREBAS, B. PHALEN, B. BEARD, T. SMITH, F. MANDEVILLE, N. DURAM

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO EXEMPTIONS TO SCHOOL IMMUNIZATION REQUIREMENTS; REMOVING THE AUTHORITY OF POSTSECONDARY SCHOOLS TO IMPOSE ADDITIONAL IMMUNIZATION REQUIREMENTS; REQUIRING SCHOOLS TO PROVIDE INFORMATION ABOUT EXEMPTIONS TO IMMUNIZATION REQUIREMENTS; MODIFYING THE RELIGIOUS EXEMPTION TO INCLUDE REASONS OF CONSCIENCE; PROHIBITING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FROM ESTABLISHING EXEMPTION REQUIREMENTS BEYOND THOSE REQUIREMENTS EXPLICITLY STATED IN LAW; AMENDING SECTIONS 20-5-403 AND 20-5-405, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 20-5-403, MCA, is amended to read:

"20-5-403. Immunization required -- release and acceptance of immunization records -- notice of exemptions required. (1) The governing authority of any school other than a postsecondary school may not allow a person to attend as a pupil unless the person:

(a) has been immunized against varicella, diphtheria, pertussis, tetanus, poliomyelitis, rubella, mumps, and measles (rubeola) in the manner and with immunizing agents approved by the department;

(b) has been immunized against Haemophilus influenza type "b" before enrolling in a preschool if under 5 years of age;

(c) qualifies for conditional attendance; or

(d) files for an exemption as provided in 20-5-405.

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(2) ~~(a)-(a)~~ The governing authority of a postsecondary school may not allow a person to attend as a pupil unless the person:

~~(i)-(a)(i)~~ has been immunized against rubella and measles (rubeola) in the manner and with immunizing agents approved by the department; or

~~(ii)-(b)(ii)~~ files for an exemption as provided in 20-5-405.

~~(b) The governing authority of a postsecondary school may, as a condition of attendance, impose immunization requirements that are more stringent than those required by this part, subject to the exemptions provided for in 20-5-405.~~

(b) The governing authority of a postsecondary school may, as a condition of attendance, impose immunization requirements that are more stringent than those required by this part, subject to the exemptions provided for in 20-5-405.

(3) A pupil who transfers from one school district to another may photocopy immunization records in the possession of the school of origin. The school district to which a pupil transfers shall accept the photocopy as evidence of immunization. Within 30 days after a transferring pupil ceases attendance at the school of origin, the school shall retain a certified copy for the permanent record and send the original immunization records for the pupil to the school district to which the pupil transfers.

(4) Any communication from a school, including websites and social media postings, regarding the immunizations required under this section must include information about the exemptions available under 20-5-405, including copies of, or links to, exemption forms prescribed or developed by the department under 20-5-405."

Section 2. 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.~~ 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 a ~~notarized an~~ affidavit on a form prescribed by the department stating that ~~immunization is contrary to the religious tenets and practices of the signer~~ the person declines one or more of the required immunizations for reasons of

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~~conscience, including religious convictions immunization is contrary to the religious tenets and practices of the signer.~~

(b) The statement must be signed:

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

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

(c) The statement must be maintained as part of the person's immunization records.

~~(d) A person who falsely claims a religious exemption is subject to the penalty for false swearing as provided in 45-7-202.~~

(2) (a) There is a medical 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 if a written medical exemption statement signed by a health care provider specified in subsection (2)(c) is filed with the governing authority. The medical exemption statement must:

(i) attest that the physical condition of the person enrolled or seeking to enroll in school or the medical circumstances relating to the person indicate that some or all of the required immunizations are not considered safe; and

(ii) indicate the specific nature and probable duration of the medical condition or circumstances that contraindicate immunization.

(b) The person is exempt from the requirements of this part to the extent indicated by the medical exemption statement.

(c) The medical exemption statement must be signed by a person who:

(i) is licensed, certified, or otherwise authorized by the laws of any state or Canada to provide health care as defined in 50-16-504;

(ii) is authorized within the person's scope of practice to administer the immunizations to which the exemption applies; and

(iii) has previously provided health care to the person seeking the exemption or has administered an immunization to which the person seeking an exemption has had an adverse reaction.

~~(d) The medical exemption statement must be maintained as part of the person's immunization~~

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1 ~~records and may not be photocopied or otherwise duplicated for use by a third party without permission of the~~
2 ~~student's parent or, if the student is an adult, the written consent of the student.~~

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

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

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

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

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

19
20 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2023.

21 - END -