

By: Representatives Gipson, Arnold, Baker, Boyd, Byrd, Carpenter, Criswell, Eubanks, Hopkins, Tullos, Bomgar, Mangold, Shirley, Horne, Henley, Barnett, Cockerham

To: Judiciary B; Education

HOUSE BILL NO. 1505

1 AN ACT TO AMEND SECTIONS 41-23-37 AND 43-20-8, MISSISSIPPI
2 CODE OF 1972, TO AUTHORIZE EXEMPTIONS FROM THE IMMUNIZATION
3 REQUIREMENTS OF SCHOOLS AND LICENSED CHILD CARE FACILITIES WHEN A
4 PARENT OR LEGAL GUARDIAN OBJECTS TO IMMUNIZATION OF THE CHILD ON
5 THE GROUNDS THAT THE IMMUNIZATION CONFLICTS WITH THE RELIGIOUS
6 BELIEFS OF THE PARENT OR GUARDIAN; TO PROVIDE THAT THE
7 IMMUNIZATION MAY BE REQUIRED REGARDLESS OF THE EXEMPTION PROVIDED
8 BY THIS ACT IN CASES WHEN SUCH DISEASE IS IN EPIDEMIC STAGES; TO
9 PROVIDE THAT A PARENT OR GUARDIAN MUST FIRST FURNISH THE
10 RESPONSIBLE OFFICIAL OF THE SCHOOL OR FACILITY AN AFFIDAVIT IN
11 WHICH THE PARENT OR GUARDIAN SWEARS OR AFFIRMS THAT THE
12 IMMUNIZATION REQUIRED CONFLICTS WITH THE RELIGIOUS BELIEFS OF THE
13 PARENT OR GUARDIAN BEFORE A CHILD IS EXEMPTED FROM IMMUNIZATION ON
14 RELIGIOUS GROUNDS; AND FOR RELATED PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 **SECTION 1.** Section 41-23-37, Mississippi Code of 1972, is
17 amended as follows:

18 41-23-37. (1) Whenever indicated, the State Health Officer
19 shall specify such immunization practices as may be considered
20 best for the control of vaccine preventable diseases. A listing
21 shall be promulgated annually or more often, if necessary.

22 (2) Except as provided hereinafter, it shall be unlawful for
23 any child to attend any school, kindergarten or similar type
24 facility intended for the instruction of children (hereinafter



25 called "schools"), either public or private, with the exception of
26 any legitimate home instruction program as defined in Section
27 37-13-91, Mississippi Code of 1972, for ten (10) or less children
28 who are related within the third degree computed according to the
29 civil law to the operator, unless they shall first have been
30 vaccinated against those diseases specified by the State Health
31 Officer.

32 (3) A certificate of exemption from vaccination for medical
33 reasons may be offered on behalf of a child by a duly licensed
34 physician and may be accepted by the local health officer when, in
35 his opinion, such exemption will not cause undue risk to the
36 community.

37 (4) Certificates of vaccination shall be issued by local
38 health officers or physicians on forms specified by the
39 Mississippi State Board of Health. These forms shall be the only
40 acceptable means for showing compliance with these immunization
41 requirements, and the responsible school officials shall file the
42 form with the child's record.

43 (5) If a child shall offer to enroll at a school without
44 having completed the required vaccinations, the local health
45 officer may grant a period of time up to ninety (90) days for such
46 completion when, in the opinion of the health officer, such delay
47 will not cause undue risk to the child, the school or the
48 community. No child shall be enrolled without having had at least
49 one (1) dose of each specified vaccine.



50 (6) Within thirty (30) days after the opening of the fall
51 term of school (on or before October 1 of each year) the person in
52 charge of each school shall report to the county or local health
53 officer, on forms provided by the Mississippi State Board of
54 Health, the number of children enrolled by age or grade or both,
55 the number fully vaccinated, the number in process of completing
56 vaccination requirements, and the number exempt from vaccination
57 by reason for such exemption.

58 Within one hundred twenty (120) days after the opening of the
59 fall term (on or before December 31), the person in charge of each
60 school shall certify to the local or county health officer that
61 all children enrolled are in compliance with immunization
62 requirements.

63 (7) For the purpose of assisting in supervising the
64 immunization status of the children the local health officer, or
65 his designee, may inspect the children's records or be furnished
66 certificates of immunization compliance by the school.

67 (8) It shall be the responsibility of the person in charge
68 of each school to enforce the requirements for immunization. Any
69 child not in compliance at the end of ninety (90) days from the
70 opening of the fall term must be suspended until in compliance,
71 unless the health officer shall attribute the delay to lack of
72 supply of vaccine or some other such factor clearly making
73 compliance impossible.



74 (9) Failure to enforce provisions of this section shall
75 constitute a misdemeanor and upon conviction be punishable by fine
76 or imprisonment or both.

77 (10) The immunization requirements of this section shall not
78 apply to a child whose parent or legal guardian objects to
79 immunization of the child on the grounds that the immunization
80 conflicts with the religious beliefs of the parent or guardian;
81 however, the immunization may be required in cases when such
82 disease is in epidemic stages. For a child to be exempt from
83 immunization on religious grounds, the parent or guardian must
84 first furnish the responsible official of the school or facility
85 an affidavit in which the parent or guardian swears or affirms
86 that the immunization required conflicts with the religious
87 beliefs of the parent or guardian.

88 **SECTION 2.** Section 43-20-8, Mississippi Code of 1972, is
89 amended as follows:

90 43-20-8. (1) The licensing agency shall have powers and
91 duties as set forth below, in addition to other duties prescribed
92 under this chapter:

93 (a) Promulgate rules and regulations concerning the
94 licensing and regulation of child care facilities as defined in
95 Section 43-20-5;

96 (b) Have the authority to issue, deny, suspend, revoke,
97 restrict or otherwise take disciplinary action against licensees
98 as provided for in this chapter;



99 (c) Set and collect fees and penalties as provided for
100 in this chapter; any increase in the fees charged by the licensing
101 agency under this paragraph shall be in accordance with the
102 provisions of Section 41-3-65; and

103 (d) Have such other powers as may be required to carry
104 out the provisions of this chapter.

105 (2) Child care facilities shall assure that parents have
106 welcome access to the child care facility at all times and shall
107 comply with the provisions of Chapter 520, Laws of 2006.

108 (3) Each child care facility shall develop and maintain a
109 current list of contact persons for each child provided care by
110 that facility. An agreement may be made between the child care
111 facility and the child's parent, guardian or contact person at the
112 time of registration to inform the parent, guardian or contact
113 person if the child does not arrive at the facility within a
114 reasonable time.

115 (4) Child care facilities shall require that, for any
116 current or prospective caregiver, all criminal records, background
117 and sex offender registry checks and current child abuse registry
118 checks are obtained. In order to determine the applicant's
119 suitability for employment, the applicant shall be fingerprinted.
120 If no disqualifying record is identified at the state level, the
121 fingerprints shall be forwarded by the Department of Public Safety
122 to the FBI for a national criminal history record check.



123 (5) The licensing agency shall require to be performed a
124 criminal records background check and a child abuse registry check
125 for all operators of a child care facility and any person living
126 in a residence used for child care. The Department of Human
127 Services shall have the authority to disclose to the State
128 Department of Health any potential applicant whose name is listed
129 on the Child Abuse Central Registry or has a pending
130 administrative review. That information shall remain confidential
131 by all parties. In order to determine the applicant's suitability
132 for employment, the applicant shall be fingerprinted. If no
133 disqualifying record is identified at the state level, the
134 fingerprints shall be forwarded by the Department of Public Safety
135 to the FBI for a national criminal history record check.

136 (6) The licensing agency shall have the authority to exclude
137 a particular crime or crimes or a substantiated finding of child
138 abuse and/or neglect as disqualifying individuals or entities for
139 prospective or current employment or licensure.

140 (7) The licensing agency and its agents, officers,
141 employees, attorneys and representatives shall not be held civilly
142 liable for any findings, recommendations or actions taken under
143 this section.

144 (8) All fees incurred in compliance with this section shall
145 be borne by the child care facility. The licensing agency is
146 authorized to charge a fee that includes the amount required by
147 the Federal Bureau of Investigation for the national criminal



148 history record check in compliance with the Child Protection Act
149 of 1993, as amended, and any necessary costs incurred by the
150 licensing agency for the handling and administration of the
151 criminal history background checks.

152 (9) (a) From and after January 1, 2008, the State Board of
153 Health shall develop regulations to ensure that all children
154 enrolled or enrolling in a state licensed child care center
155 receive age-appropriate immunization against invasive pneumococcal
156 disease as recommended by the Advisory Committee on immunization
157 practices of the Centers for Disease Control and Prevention. The
158 State Board of Health shall include, within its regulations,
159 protocols for children under the age of twenty-four (24) months to
160 catch up on missed doses. If the State Board of Health has
161 adopted regulations before January 1, 2008, that would otherwise
162 meet the requirements of this subsection, then this subsection
163 shall stand repealed on January 1, 2008.

164 (b) The immunization requirements of this subsection
165 shall not apply to a child whose parent or legal guardian objects
166 to immunization of the child on the grounds that the immunization
167 conflicts with the religious beliefs of the parent or guardian;
168 however, the immunization may be required in cases when such
169 disease is in epidemic stages. For a child to be exempt from
170 immunization on religious grounds, the parent or guardian must
171 first furnish the responsible official of the school or facility
172 an affidavit in which the parent or guardian swears or affirms



173 that the immunization required conflicts with the religious
174 beliefs of the parent or guardian.

175 **SECTION 3.** This act shall take effect and be in force from
176 and after July 1, 2018.

