

By: Representatives Eubanks, Faulkner, Bomgar, Boyd, Brown (20th), Carpenter, Criswell, Foster, Hale, Hopkins, McCray, Owen, Patterson, Rushing, Steverson, Tullos, Williamson, Horne, Mangold

To: Education; Public Health and Human Services

HOUSE BILL NO. 1060

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 A PARENT OR  
7 GUARDIAN MUST FIRST FURNISH THE RESPONSIBLE OFFICIAL OF THE SCHOOL  
8 OR FACILITY AN AFFIDAVIT IN WHICH THE PARENT OR GUARDIAN SWEARS OR  
9 AFFIRMS THAT THE IMMUNIZATION REQUIRED CONFLICTS WITH THE  
10 RELIGIOUS BELIEFS OF THE PARENT OR GUARDIAN BEFORE A CHILD IS  
11 EXEMPTED FROM IMMUNIZATION ON RELIGIOUS GROUNDS; AND FOR RELATED  
12 PURPOSES.

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

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

16 41-23-37. (1) Whenever indicated, the State Health Officer  
17 shall specify such immunization practices as may be considered  
18 best for the control of vaccine preventable diseases. A listing  
19 shall be promulgated annually or more often, if necessary.

20 (2) Except as provided hereinafter, it shall be unlawful for  
21 any child to attend any school, kindergarten or similar type  
22 facility intended for the instruction of children (hereinafter  
23 called "schools"), either public or private, with the exception of



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

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

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

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



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

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

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

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



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

75       (10) The immunization requirements of this section shall not  
76 apply to a child whose parent or legal guardian objects to  
77 immunization of the child on the grounds that the immunization  
78 conflicts with the religious beliefs of the parent or guardian.  
79 For a child to be exempt from immunization on religious grounds,  
80 the parent or guardian must first furnish the responsible official  
81 of the school or facility an affidavit in which the parent or  
82 guardian swears or affirms that the immunization required  
83 conflicts with the religious beliefs of the parent or guardian.

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

86       43-20-8. (1) The licensing agency shall have powers and  
87 duties as set forth below, in addition to other duties prescribed  
88 under this chapter:

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

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

95           (c) Set and collect fees and penalties as provided for  
96 in this chapter; any increase in the fees charged by the licensing



97 agency under this paragraph shall be in accordance with the  
98 provisions of Section 41-3-65; and

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

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

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

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

119 (5) The licensing agency shall require to be performed a  
120 criminal records background check and a child abuse registry check  
121 for all operators of a child care facility and any person living



122 in a residence used for child care. The Department of Human  
123 Services shall have the authority to disclose to the State  
124 Department of Health any potential applicant whose name is listed  
125 on the Child Abuse Central Registry or has a pending  
126 administrative review. That information shall remain confidential  
127 by all parties. In order to determine the applicant's suitability  
128 for employment, the applicant shall be fingerprinted. If no  
129 disqualifying record is identified at the state level, the  
130 fingerprints shall be forwarded by the Department of Public Safety  
131 to the FBI for a national criminal history record check.

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

136 (7) The licensing agency and its agents, officers,  
137 employees, attorneys and representatives shall not be held civilly  
138 liable for any findings, recommendations or actions taken under  
139 this section.

140 (8) All fees incurred in compliance with this section shall  
141 be borne by the child care facility. The licensing agency is  
142 authorized to charge a fee that includes the amount required by  
143 the Federal Bureau of Investigation for the national criminal  
144 history record check in compliance with the Child Protection Act  
145 of 1993, as amended, and any necessary costs incurred by the



146 licensing agency for the handling and administration of the  
147 criminal history background checks.

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

160 (b) The immunization requirements of this subsection  
161 shall not apply to a child whose parent or legal guardian objects  
162 to immunization of the child on the grounds that the immunization  
163 conflicts with the religious beliefs of the parent or guardian.  
164 For a child to be exempt from immunization on religious grounds,  
165 the parent or guardian must first furnish the responsible official  
166 of the school or facility an affidavit in which the parent or  
167 guardian swears or affirms that the immunization required  
168 conflicts with the religious beliefs of the parent or guardian.

169 **SECTION 3.** This act shall take effect and be in force from  
170 and after July 1, 2020.

