

By: Representative Crawford

To: Public Health and Human
Services

HOUSE BILL NO. 1453

1 AN ACT TO PROHIBIT STATE AND LOCAL GOVERNMENTAL ENTITIES AND
2 PUBLIC OFFICIALS FROM REQUIRING ANY PERSON TO BE VACCINATED
3 AGAINST COVID-19; TO PROHIBIT GOVERNMENTAL ENTITIES AND PUBLIC
4 OFFICIALS FROM TREATING PERSONS WHO ARE NOT VACCINATED AGAINST
5 COVID-19 DIFFERENTLY FROM THOSE WHO ARE OR FROM REFUSING SERVICES
6 OR GOODS BASED ON A PERSON'S COVID-19 VACCINATION STATUS; TO
7 AUTHORIZE PUBLIC AND PRIVATE EMPLOYEE EXEMPTIONS FROM COVID-19
8 VACCINE MANDATES; TO AMEND SECTION 41-23-37, MISSISSIPPI CODE OF
9 1972, TO PROVIDE THAT A CHILD WILL BE EXEMPT FROM THE REQUIREMENT
10 TO HAVE ANY SPECIFIC VACCINATION IN ORDER TO ATTEND A SCHOOL OR
11 POSTSECONDARY EDUCATIONAL INSTITUTION IF THE CHILD'S PARENT OR
12 GUARDIAN SUBMITS TO THE SCHOOL OR POSTSECONDARY EDUCATIONAL
13 INSTITUTION A LETTER OR AFFIDAVIT THAT DOCUMENTS WHICH REQUIRED
14 VACCINATIONS HAVE BEEN GIVEN, AND WHICH VACCINATIONS HAVE NOT BEEN
15 GIVEN ON THE BASIS THAT THEY ARE CONTRARY TO HIS OR HER RELIGIOUS,
16 PHILOSOPHICAL OR CONSCIENTIOUS BELIEFS; TO PRESCRIBE THE CONTENT
17 TO BE INCLUDED IN THE LETTER OR AFFIDAVIT SUBMITTED TO THE SCHOOL
18 DISTRICT, SCHOOL OR POSTSECONDARY EDUCATIONAL INSTITUTION OF
19 ENROLLMENT; TO AMEND SECTION 43-20-8, MISSISSIPPI CODE OF 1972, TO
20 AUTHORIZE EXEMPTIONS FROM THE IMMUNIZATION REQUIREMENTS LICENSED
21 CHILD CARE FACILITIES WHEN A PARENT OR LEGAL GUARDIAN OBJECTS TO
22 IMMUNIZATION OF THE CHILD ON THE GROUNDS THAT THE IMMUNIZATION
23 CONFLICTS WITH THE RELIGIOUS, PHILOSOPHICAL OR CONSCIENTIOUS
24 BELIEFS OF THE PARENT OR GUARDIAN; TO PROVIDE THAT A PARENT OR
25 GUARDIAN MUST FIRST FURNISH THE RESPONSIBLE OFFICIAL OF THE
26 FACILITY AN AFFIDAVIT IN WHICH THE PARENT OR GUARDIAN SWEARS OR
27 AFFIRMS THAT THE IMMUNIZATION REQUIRED CONFLICTS WITH THE
28 RELIGIOUS, PHILOSOPHICAL OR CONSCIENTIOUS BELIEFS OF THE PARENT OR
29 GUARDIAN BEFORE A CHILD IS EXEMPTED FROM IMMUNIZATION ON RELIGIOUS
30 GROUNDS; TO AMEND SECTION 41-88-3, MISSISSIPPI CODE OF 1972, TO
31 PROHIBIT A REQUIREMENT THAT CHILDREN BE VACCINATED AGAINST
32 COVID-19 AS PART OF THE CHILD VACCINATION PROGRAM ADMINISTERED BY
33 THE STATE DEPARTMENT OF HEALTH; AND FOR RELATED PURPOSES.



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

35 **SECTION 1.** (1) The Legislature finds and determines that

36 mandates of the United States government that force employers to
37 take actions related to the Coronavirus 2019 (COVID-19)
38 vaccinations:

39 (a) Will be imposed on many public and private
40 employers and employees in Mississippi;

41 (b) Will soon subject many public and private employers
42 and employees in Mississippi to be forced to be vaccinated against
43 the employee's will, or face impending terminations related to
44 exercising their rights to refuse a COVID-19 vaccination;

45 (c) Are an overreach of government authority;

46 (d) Necessitated the need for immediate action by the
47 Legislature to protect Mississippi employees from this type of
48 excessive overreach.

49 (2) The Legislature intends for this act to:

50 (a) Protect public and private employees in Mississippi
51 from impending terminations due to vaccination mandates; and

52 (b) Create the ability for funding to be available to
53 assist employees in Mississippi with the costs associated with
54 testing related to the vaccination mandate through the methods
55 provided in this act, including, without limitation, COVID-19
56 relief funds distributed from the American Rescue Plan Act of
57 2021, Public Law 117-2.



58 **SECTION 2.** (1) Notwithstanding any other provision of law,
59 including during the continuance of any COVID-19 state of
60 emergency, a governmental entity or public official may not adopt,
61 implement or enforce any law, rule, regulation, ordinance,
62 proclamation, resolution, order or other instrument imposing a
63 mandate, either directly or indirectly, which requires an
64 individual to be vaccinated against COVID-19.

65 (2) (a) Except as provided in paragraph (b) of this
66 subsection, an adult individual may not be required for any reason
67 to be vaccinated against COVID-19 unless the individual chooses to
68 be vaccinated against COVID-19.

69 (b) An adult individual who is incapacitated may not be
70 required for any reason to be vaccinated against COVID-19 unless
71 the legal guardian of the incapacitated adult chooses to have the
72 incapacitated adult vaccinated against COVID-19.

73 (c) A minor under eighteen (18) years of age may not be
74 required for any reason to be vaccinated against COVID-19 unless
75 the minor's parent or legal guardian chooses to have the minor
76 vaccinated against COVID-19.

77 (d) Any adult individual or minor under the age of
78 eighteen (18) years, at the decision of such minor's parent or
79 guardian, may refuse vaccination for any reason based on such
80 individual's religious, philosophical or conscientious beliefs.

81 (3) A governmental entity or public official may not:



82 (a) Require an individual who has not been vaccinated
83 against COVID-19 to engage in or refrain from engaging in
84 activities or precautions that differ from the activities or
85 precautions of an individual who has been vaccinated against
86 COVID-19;

87 (b) Refuse, withhold from, or deny a person local or
88 state services, goods, facilities, privileges, licensing,
89 educational opportunities, health care access or employment
90 opportunities based on the person's COVID-19 vaccination status;
91 or

92 (c) Discriminate against an employee in compensation or
93 in a term, condition or privilege of employment based on the
94 person's COVID-19 vaccination status.

95 (4) For purposes of this section:

96 (a) "COVID-19" means the novel Coronavirus identified
97 as SARS-CoV-2, the disease, health condition or threat caused by
98 the novel Coronavirus SARS-CoV-2, or a virus mutating therefrom,
99 and conditions associated with the disease.

100 (b) "COVID-19 state of emergency" means:

101 (i) A public health emergency related to COVID-19
102 declared by the United States Secretary of Health and Human
103 Services under Section 319 of the Public Health Service Act (42
104 USC Section 247d);



105 (ii) A Presidential declaration of emergency
106 related to COVID-19 under the National Emergencies Act or the
107 Stafford Act; or

108 (iii) A state of emergency related to COVID-19
109 proclaimed by the Governor of the State of Mississippi under
110 Section 33-15-11(b) (17).

111 (c) "Governmental entity" means any branch, board,
112 commission, department, office, agency or other instrumentality of
113 state government or of a county, municipality, school district,
114 community college district or any other political subdivision of
115 this state.

116 (d) "Public official" means:

117 (i) Any elected official of the State of
118 Mississippi or any political subdivision of the state or any other
119 body politic within the State of Mississippi; or

120 (ii) Any member, officer, director, commissioner,
121 supervisor, chief, head, agent or employee of the State of
122 Mississippi, or any agency of the state, of any political
123 subdivision of the State of Mississippi, of any body politic
124 within the State of Mississippi, or of any other governmental
125 entity created by or under the laws of the State of Mississippi or
126 by executive order of the Governor of the state, any of which is
127 funded by public funds or which expends, authorizes or recommends
128 the use of public funds.



129 **SECTION 3.** (1) A public or private employer that requires
130 or is mandated to require vaccination or immunization for
131 Coronavirus 2019 (COVID-19) or its variants for its employees
132 shall provide an exemption process.

133 (2) The exemption process shall include options to allow the
134 employee to produce either:

135 (a) A negative antigen detection test result or
136 molecular diagnostic test result no more than one (1) time per
137 week showing that the employee is not positive for COVID-19; or

138 (b) Proof of immunity for the virus that causes
139 COVID-19 or its variants, including, without limitation, the
140 presence of antibodies, T-cell response, or proof of a positive
141 COVID-19 or its variants test, on a basis of two (2) times per
142 year, not to exceed one (1) time every six (6) months, from a
143 licensed healthcare provider; or

144 (c) Submit a signed and notarized letter, affidavit or
145 certificate of exemption from vaccination for religious,
146 philosophical or conscientious beliefs.

147 (3) If multiple proven test processes are available to an
148 employee under subsection (2) of this section, the employee may
149 choose which test to take.

150 (4) The employee may provide test results obtained outside
151 of the employer or a licensed healthcare provider if the test
152 meets the guidelines contained within the Policy for Coronavirus
153 Disease-2019 Tests During the Public Health Emergency (Revised)



154 issued by the United States Department of Health and Human
155 Services Food and Drug Administration Center for Devices and
156 Radiological Health.

157 (a) The cost of the testing shall be covered through
158 any state or federal funding made available, including without
159 limitation, COVID-19 relief funds distributed from the American
160 Rescue Plan Act of 2021, Public Law 117-2, if the employee's
161 health benefit plan does not provide coverage for the testing.

162 (b) In the event that the cost of testing under
163 subsection (3) of this section is not available, the cost of the
164 testing shall be covered by the employee.

165 (5) An employer shall provide the exemption process required
166 under this section in addition to any other exemptions offered by
167 the employer.

168 (6) If an employee complies with the requirements of the
169 exemption process related to COVID-19 as required by this section,
170 the employee shall not be terminated for mandates related to
171 COVID-19.

172 (7) Nothing in this section should be interpreted to modify
173 any other agreements between the employer and employee or to amend
174 or affect the employment-at-will doctrine, whether written or
175 otherwise.

176 (8) The Department of Finance and Administration shall
177 establish rules regarding the method of distribution of COVID-19
178 relief funds from the American Rescue Plan Act of 2021, Public Law



179 117-2, to employees and employers to cover the cost of testing, to
180 include without limitation the:

181 (a) Timely distribution of funds to recipients within
182 thirty (30) days;

183 (b) Establishment of an option for distribution to an
184 employer that chooses to receive funds for disbursement to
185 employees; and

186 (c) Verification and method of authentication of
187 receipts that shall meet legislative auditing requirements,
188 including without limitation the development of forms.

189 (9) If an employee is terminated due to the employer's
190 violation of this section, the employee may be eligible for
191 unemployment benefits in addition to any other remedy available to
192 the employee.

193 (10) This section shall be repealed July 31, 2023, unless
194 extended by the Legislature.

195 **SECTION 4.** Section 41-23-37, Mississippi Code of 1972, is
196 amended as follows:

197 41-23-37. (1) Whenever indicated, the State Health Officer
198 shall specify such immunization practices as may be considered
199 best for the control of vaccine preventable diseases. A listing
200 shall be promulgated annually or more often, if necessary.

201 (2) Except as provided * * * in this section, it shall be
202 unlawful for any child to attend any school, kindergarten or
203 similar type facility intended for the instruction of children



204 (hereinafter called "schools"), either public or private, with the
205 exception of any legitimate home instruction program, as defined
206 in Section 37-13-91, * * * for ten (10) or * * * fewer children
207 who are related within the third degree computed according to the
208 civil law to the operator, unless they * * * have a certificate of
209 vaccination or have submitted to the school a certificate of
210 exemption from vaccination as provided for in this section.

211 (3) (a) A letter or certificate of exemption from
212 vaccination for medical reasons may be offered on behalf of a
213 child by a duly licensed physician in any state and provided on
214 the stationery of that physician may be accepted by the local
215 health officer and presented to the school on behalf of a child
216 when, in his opinion, * * * is contraindicated for medical reasons
217 and that the exemption will not cause undue risk to the community.

218 (b) A letter or certificate of exemption from
219 vaccination for religious or philosophical beliefs may be
220 submitted to the school on behalf of a child by the child's parent
221 or guardian.

222 (c) A letter or certificate of exemption from
223 vaccination for conscientious beliefs may be submitted to the
224 school on behalf of a child by the child's parent or guardian.

225 (4) (a) No child seeking claiming an exemption authorized
226 under subsection (3) (b) shall be required to comply with the
227 requirements of this section for any specific vaccination in order
228 to attend the school, provided that the parent or guardian or



229 adult who has assumed responsibility for the child's care and
230 custody in the case of a minor, or the child seeking admission if
231 an emancipated minor, submits to the school a letter or affidavit
232 on an exemption form provided by the State Department of Health,
233 which documents the required vaccinations which have been
234 administered, and which vaccinations have not been administered on
235 the basis that they are contrary to his or her religious or
236 philosophical beliefs. The letter or affidavit must be signed by
237 the parent or guardian or emancipated minor, and which such
238 affidavit must be notarized.

239 (b) The parent or guardian or adult who has assumed
240 responsibility for the child's care and custody in the case of a
241 minor, or the child seeking admission if an emancipated minor,
242 shall submit a letter or affidavit to the school district, school
243 or postsecondary educational institution of enrollment
244 specifically stating the reasons for the philosophical and
245 religious exemption from vaccinations sought, in addition to a
246 statement as to whether the aversion is to some or all
247 vaccinations. The letter or affidavit submitted shall also
248 include, but not be limited to, the following:

249 (i) A statement that the parent or guardian who
250 has assumed responsibility for the child's care and custody, in
251 the case of a minor, or the child seeking admission if an
252 emancipated minor, has been informed by a health care practitioner



253 and school district regarding the risks and benefits of receiving
254 vaccinations or not receiving vaccinations; and

255 (ii) A statement of understanding that:

256 1. At the discretion of the State Department
257 of Health or local health officer, the unimmunized child or
258 individual may be removed from day care or school during an
259 outbreak if the child or individual is not fully vaccinated; and

260 2. The child or individual shall not return
261 to school until the outbreak has been resolved and the State
262 Department of Health or local health officer approves the return
263 to school.

264 (5) (a) No child seeking claiming an exemption authorized
265 under subsection (3) (b) on the basis of conscientious beliefs
266 shall be required to comply with the requirements of this section
267 for any specific vaccination in order to attend the school,
268 provided that the parent or guardian or adult who has assumed
269 responsibility for the child's care and custody in the case of a
270 minor, or the child seeking admission if an emancipated minor,
271 submits to the school a letter or affidavit on an exemption form
272 provided by the State Department of Health, which must be signed
273 by the parent or guardian or emancipated minor, and which such
274 affidavit must be notarized.

275 (b) A blank exemption form for conscientious beliefs
276 may be obtained by the parent or guardian of a minor child or by
277 the emancipated minor by submitting a written request for the



278 exemption form to the State Department of Health or the county
279 health department or by downloading the exemption form from the
280 website of the State Department of Health.

281 (c) The exemption form for conscientious beliefs must
282 contain a statement indicating that the parent or guardian of a
283 minor child or the emancipated minor understands the benefits and
284 risks of vaccinations and the benefits and risks of not being
285 vaccinated. In addition, it must contain a section where the
286 parent or guardian or emancipated minor can list the specific
287 vaccination or vaccinations for which the exemption applies. The
288 completed and notarized exemption form shall expire one (1) year
289 from the date signed by the parent or guardian. The parent or
290 guardian or emancipated minor must submit a new form every school
291 calendar year for which they are claiming an exemption from
292 vaccination requirements for conscientious beliefs.

293 (6) Certificates of vaccination shall be issued by local
294 health officers or physicians on forms specified by the * * *
295 State * * * Department of Health. These forms shall be the only
296 acceptable means for showing compliance with * * * the
297 immunization requirements of this section, and the responsible
298 school officials shall file the form with the child's record.

299 (7) If a child * * * who is not exempt from vaccination
300 under subsection (3), (4) or (5) of this section offers to enroll
301 at a school or postsecondary educational institution without
302 having completed the required vaccinations, the local health



303 officer may grant a period of time up to ninety (90) days
304 for * * * that completion when, in the opinion of the health
305 officer, * * * the delay will not cause undue risk to the child,
306 the school or the community. No child who is not exempt from
307 vaccination under subsection (3), (4) or (5) of this section shall
308 be enrolled without having had at least one (1) dose of each
309 specified vaccine.

310 (8) Within thirty (30) days after the opening of the fall
311 term of school (on or before October 1 of each year) the person in
312 charge of each school shall report to the county or local health
313 officer, on forms provided by the * * * State * * * Department of
314 Health, the number of children enrolled by age or grade or both,
315 the number fully vaccinated, the number in process of completing
316 vaccination requirements, and the number exempt from vaccination
317 by reason * * * of a certificate of exemption.

318 (9) Within one hundred twenty (120) days after the opening
319 of the fall term (on or before December 31), the person in charge
320 of each school or postsecondary educational institution shall
321 certify to the local or county health officer that all children
322 enrolled who are not exempt from vaccination under subsection (3),
323 (4) or (5) of this section are in compliance with the immunization
324 requirements.

325 (10) For the purpose of assisting in supervising the
326 immunization status of the children the local health officer, or
327 his designee, may inspect the children's records or be furnished



328 certificates of * * * vaccination compliance by the school or
329 postsecondary educational institution.

330 (11) It shall be the responsibility of the person in charge
331 of each school to enforce the requirements for immunization and
332 exemption from vaccination. Any child who is not exempt from
333 vaccination under subsection (3), (4) or (5) of this section is
334 not in compliance at the end of ninety (90) days from the opening
335 of the fall term must be suspended until in compliance, unless the
336 health officer * * * attributes the delay to lack of supply of
337 vaccine or some other such factor clearly making compliance
338 impossible.

339 (12) Failure to enforce provisions of this section shall
340 constitute a misdemeanor and, upon conviction, be punishable by
341 fine or imprisonment or both.

342 **SECTION 5.** Section 43-20-8, Mississippi Code of 1972, is
343 amended as follows:

344 43-20-8. (1) The licensing agency shall have powers and
345 duties as set forth below, in addition to other duties prescribed
346 under this chapter:

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

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



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

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

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

362 (3) Each child care facility shall develop and maintain a
363 current list of contact persons for each child provided care by
364 that facility. An agreement may be made between the child care
365 facility and the child's parent, guardian or contact person at the
366 time of registration to inform the parent, guardian or contact
367 person if the child does not arrive at the facility within a
368 reasonable time.

369 (4) Child care facilities shall require that, for any
370 current or prospective caregiver, all criminal records, background
371 and sex offender registry checks and current child abuse registry
372 checks are obtained. In order to determine the applicant's
373 suitability for employment, the applicant shall be fingerprinted.
374 If no disqualifying record is identified at the state level, the
375 fingerprints shall be forwarded by the Department of Public Safety
376 to the FBI for a national criminal history record check.



377 (5) The licensing agency shall require to be performed a
378 criminal records background check and a child abuse registry check
379 for all operators of a child care facility and any person living
380 in a residence used for child care. The Department of Human
381 Services shall have the authority to disclose to the State
382 Department of Health any potential applicant whose name is listed
383 on the Child Abuse Central Registry or has a pending
384 administrative review. That information shall remain confidential
385 by all parties. In order to determine the applicant's suitability
386 for employment, the applicant shall be fingerprinted. If no
387 disqualifying record is identified at the state level, the
388 fingerprints shall be forwarded by the Department of Public Safety
389 to the FBI for a national criminal history record check.

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

394 (7) The licensing agency and its agents, officers,
395 employees, attorneys and representatives shall not be held civilly
396 liable for any findings, recommendations or actions taken under
397 this section.

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



402 history record check in compliance with the Child Protection Act
403 of 1993, as amended, and any necessary costs incurred by the
404 licensing agency for the handling and administration of the
405 criminal history background checks.

406 (9) (a) From and after January 1, 2008, the State Board of
407 Health shall develop regulations to ensure that all children
408 enrolled or enrolling in a state licensed child care center
409 receive age-appropriate immunization against invasive pneumococcal
410 disease as recommended by the Advisory Committee on immunization
411 practices of the Centers for Disease Control and Prevention. The
412 State Board of Health shall include, within its regulations,
413 protocols for children under the age of twenty-four (24) months to
414 catch up on missed doses. If the State Board of Health has
415 adopted regulations before January 1, 2008, that would otherwise
416 meet the requirements of this subsection, then this subsection
417 shall stand repealed on January 1, 2008.

418 (b) The immunization requirements of this subsection
419 shall not apply to a child whose parent or legal guardian objects
420 to immunization of the child on the grounds that the immunization
421 conflicts with the religious, philosophical or conscientious
422 beliefs of the parent or guardian. For a child to be exempt from
423 immunization on religious grounds, philosophical or conscientious
424 beliefs, the parent or guardian must first furnish the responsible
425 official of the school or facility an affidavit in which the
426 parent or guardian swears or affirms that the immunization



427 required conflicts with the religious, philosophical or
428 conscientious beliefs of the parent or guardian.

429 **SECTION 6.** Section 41-88-3, Mississippi Code of 1972, is
430 amended as follows:

431 41-88-3. (1) The State Department of Health is responsible
432 for assuring that all children in the state are appropriately
433 immunized against vaccine-preventable diseases. In order to
434 improve the state's immunization levels in children, the State
435 Department of Health shall enhance current immunization activities
436 and focus on children receiving all recommended immunizations by
437 twenty-four (24) months of age. The immunizations shall be
438 administered according to the recommendations of the national
439 Advisory Committee on Immunization Practices (ACIP); however,
440 notwithstanding the ACIP recommendations or any law, rule,
441 regulation, ordinance, proclamation, resolution, order or other
442 governmental instrument to the contrary, a child may not be
443 required to be vaccinated against COVID-19. The administration of
444 vaccine shall not be delayed due to a reluctance of the health
445 care provider to administer multiple immunizations in a visit.
446 The department shall improve parent compliance and provide more
447 timely scheduling, recall and follow-up in order to achieve
448 national and state immunization level goals.

449 (2) The State Department of Health shall establish a
450 statewide childhood immunization registry to which all health care
451 providers will report the administration of childhood



452 immunizations. The State Board of Health will promulgate rules
453 and regulations needed to implement this section. The department
454 shall make information regarding the immunization status of
455 children in the registry available to the parents/guardians of the
456 child, health care providers and individuals or organizations that
457 are required to report on the immunizations status of children in
458 their care.

459 **SECTION 7.** This act shall take effect and be in force from
460 and after July 1, 2022.

