

By: Senator(s) Sparks

To: Education

SENATE BILL NO. 2769

1 AN ACT TO AMEND SECTION 41-23-37, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE EXEMPTIONS FROM THE IMMUNIZATION REQUIREMENTS OF  
3 SCHOOLS AND LICENSED CHILD CARE FACILITIES WHEN A PARENT OR LEGAL  
4 GUARDIAN OBJECTS TO IMMUNIZATION OF THE CHILD ON THE GROUNDS THAT  
5 THE IMMUNIZATION CONFLICTS WITH THE RELIGIOUS BELIEFS OF THE  
6 PARENT OR GUARDIAN; TO PROVIDE THAT A PARENT OR GUARDIAN MUST  
7 FIRST FURNISH THE RESPONSIBLE OFFICIAL OF THE SCHOOL OR FACILITY  
8 AN AFFIDAVIT IN WHICH THE PARENT OR GUARDIAN SWEARS OR AFFIRMS  
9 THAT THE IMMUNIZATION REQUIRED CONFLICTS WITH THE RELIGIOUS  
10 BELIEFS OF THE PARENT OR GUARDIAN BEFORE A CHILD IS EXEMPTED FROM  
11 IMMUNIZATION ON RELIGIOUS GROUNDS; TO PROVIDE THAT DURING AN  
12 EPIDEMIC OR THREATENED EPIDEMIC OF ANY DISEASE PREVENTABLE BY AN  
13 IMMUNIZATION REQUIRED BY THE DEPARTMENT OF HEALTH, CHILDREN WHO  
14 HAVE NOT BEEN IMMUNIZED MAY BE EXCLUDED FROM SCHOOL UNTIL THEY ARE  
15 IMMUNIZED AGAINST THE DISEASE OR THE EPIDEMIC OR THE THREAT NO  
16 LONGER CONSTITUTES A SIGNIFICANT PUBLIC HEALTH DANGER; TO PROVIDE  
17 THAT, SUBJECT TO APPROPRIATIONS, THE DEPARTMENT OF HEALTH SHALL  
18 ENGAGE IN A MARKETING PROGRAM TO PROVIDE IMMUNIZATION INFORMATION,  
19 INCLUDING, BUT NOT LIMITED TO, EVIDENCE-BASED RESEARCH, RESOURCES  
20 AND INFORMATION FROM CREDIBLE SCIENTIFIC AND PUBLIC HEALTH  
21 ORGANIZATIONS AND PEER-REVIEWED STUDIES CONCERNING THE BENEFITS  
22 AND RISKS OF IMMUNIZATIONS AND EVIDENCE-BASED PRACTICES; TO AMEND  
23 SECTION 43-20-8, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR  
24 RELATED PURPOSES.

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

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

28 41-23-37. (1) Whenever indicated, the State Health Officer  
29 shall specify such immunization practices as may be considered



30 best for the control of vaccine preventable diseases. A listing  
31 shall be promulgated annually or more often, if necessary.

32 (2) Except as provided hereinafter, it shall be unlawful for  
33 any child to attend any school, kindergarten or similar type  
34 facility intended for the instruction of children (hereinafter  
35 called "schools"), either public or private, with the exception of  
36 any legitimate home instruction program as defined in Section  
37 37-13-91, Mississippi Code of 1972, for ten (10) or less children  
38 who are related within the third degree computed according to the  
39 civil law to the operator, unless they shall first have been  
40 vaccinated against those diseases specified by the State Health  
41 Officer.

42 (3) A certificate of exemption from vaccination for medical  
43 reasons may be offered on behalf of a child by a \* \* \* physician  
44 duly licensed in Mississippi in a written certification and \* \* \*  
45 shall be accepted by the local health officer when \* \* \*.

46 (4) The immunization requirements of this section shall not  
47 apply to a child whose parent or legal guardian objects to  
48 immunization of the child on the grounds that the immunization  
49 conflicts with the religious beliefs of the parent or guardian.  
50 For a child to be exempt from immunization on religious grounds,  
51 the parent or guardian must first furnish the responsible official  
52 of the school or facility a notarized affidavit in which the  
53 parent or guardian swears or affirms that the immunization



54 required conflicts with the religious beliefs of the parent or  
55 guardian.

56 (5) During an epidemic or threatened epidemic of any disease  
57 preventable by an immunization required by the Department of  
58 Health, children who have not been immunized may be excluded from  
59 school until (a) they are immunized against the disease or (b) the  
60 epidemic or the threat no longer constitutes a significant public  
61 health danger.

62 (6) Certificates of vaccination shall be issued by local  
63 health officers or physicians on forms specified by the  
64 Mississippi State Board of Health. These forms shall be the only  
65 acceptable means for showing compliance with these immunization  
66 requirements, and the responsible school officials shall file the  
67 form with the child's record.

68 ( \* \* \*7) If a child shall offer to enroll at a school  
69 without having completed the required vaccinations, the local  
70 health officer may grant a period of time up to ninety (90) days  
71 for such completion when, in the opinion of the health officer,  
72 such delay will not cause undue risk to the child, the school or  
73 the community. No child shall be enrolled without having had at  
74 least one (1) dose of each specified vaccine.

75 ( \* \* \*8) \* \* \* On or before October 1 of each year \* \* \*  
76 the person in charge of each school shall report to the county or  
77 local health officer, on forms provided by the Mississippi State  
78 Board of Health, the number of children enrolled by age or grade



79 or both, the number fully vaccinated, the number in process of  
80 completing vaccination requirements, and the number exempt from  
81 vaccination by reason for such exemption. This report shall be  
82 posted and made available to the public online by the school.

83 \* \* \* On or before December 31 \* \* \*, the person in charge  
84 of each school shall certify to the local or county health officer  
85 that all children enrolled are in compliance with immunization  
86 requirements.

87 ( \* \* \*9) For the purpose of assisting in supervising the  
88 immunization status of the children the local health officer, or  
89 his designee, may inspect the children's records or be furnished  
90 certificates of immunization compliance by the school.

91 ( \* \* \*10) It shall be the responsibility of the person in  
92 charge of each school to enforce the requirements for  
93 immunization. Any child not in compliance at the end of ninety  
94 (90) days from the opening of the fall term must be suspended  
95 until in compliance, unless the health officer shall attribute the  
96 delay to lack of supply of vaccine or some other such factor  
97 clearly making compliance impossible.

98 (11) Subject to appropriations, the Department of Health  
99 shall engage in a marketing program to provide immunization  
100 information, including, but not limited to, evidence-based  
101 research, resources and information from credible scientific and  
102 public health organizations and peer-reviewed studies concerning  
103 the benefits and risks of immunizations and evidence-based



104 practices. The program shall include information about the  
105 Department of Health's Vaccines for Children Program, which  
106 provides access to vaccinations for uninsured or underinsured  
107 children. The program shall also include an online, interactive  
108 learning module.

109 ( \* \* \*12) Failure to enforce provisions of this section  
110 shall constitute a misdemeanor and upon conviction be punishable  
111 by fine or imprisonment or both.

112 \* \* \*

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

115 43-20-8. (1) The licensing agency shall have powers and  
116 duties as set forth below, in addition to other duties prescribed  
117 under this chapter:

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

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

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



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

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

133 (3) Each child care facility shall develop and maintain a  
134 current list of contact persons for each child provided care by  
135 that facility. An agreement may be made between the child care  
136 facility and the child's parent, guardian or contact person at the  
137 time of registration to inform the parent, guardian or contact  
138 person if the child does not arrive at the facility within a  
139 reasonable time.

140 (4) Child care facilities shall require that, for any  
141 current or prospective caregiver, all criminal records, background  
142 and sex offender registry checks and current child abuse registry  
143 checks are obtained. In order to determine the applicant's  
144 suitability for employment, the applicant shall be fingerprinted.  
145 If no disqualifying record is identified at the state level, the  
146 fingerprints shall be forwarded by the Department of Public Safety  
147 to the FBI for a national criminal history record check.

148 (5) The licensing agency shall require to be performed a  
149 criminal records background check and a child abuse registry check  
150 for all operators of a child care facility and any person living  
151 in a residence used for child care. The Department of Human  
152 Services shall have the authority to disclose to the State



153 Department of Health any potential applicant whose name is listed  
154 on the Child Abuse Central Registry or has a pending  
155 administrative review. That information shall remain confidential  
156 by all parties. In order to determine the applicant's suitability  
157 for employment, the applicant shall be fingerprinted. If no  
158 disqualifying record is identified at the state level, the  
159 fingerprints shall be forwarded by the Department of Public Safety  
160 to the FBI for a national criminal history record check.

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

165 (7) The licensing agency and its agents, officers,  
166 employees, attorneys and representatives shall not be held civilly  
167 liable for any findings, recommendations or actions taken under  
168 this section.

169 (8) All fees incurred in compliance with this section shall  
170 be borne by the child care facility. The licensing agency is  
171 authorized to charge a fee that includes the amount required by  
172 the Federal Bureau of Investigation for the national criminal  
173 history record check in compliance with the Child Protection Act  
174 of 1993, as amended, and any necessary costs incurred by the  
175 licensing agency for the handling and administration of the  
176 criminal history background checks.



177           (9) (a) From and after January 1, 2008, the State Board of  
178 Health shall develop regulations to ensure that all children  
179 enrolled or enrolling in a state licensed child care center  
180 receive age-appropriate immunization against invasive pneumococcal  
181 disease as recommended by the Advisory Committee on immunization  
182 practices of the Centers for Disease Control and Prevention. The  
183 State Board of Health shall include, within its regulations,  
184 protocols for children under the age of twenty-four (24) months to  
185 catch up on missed doses. If the State Board of Health has  
186 adopted regulations before January 1, 2008, that would otherwise  
187 meet the requirements of this subsection, then this subsection  
188 shall stand repealed on January 1, 2008.

189                   (b) \* \* \* Children enrolled or enrolling in a  
190 state-licensed child care center shall be entitled to the  
191 vaccination exemptions referenced in Section 41-23-27(3) and (4).  
192 State-licensed child care centers shall report vaccination rates  
193 as required in Section 41-23-27(8)

194           **SECTION 3.** This act shall take effect and be in force from  
195 and after July 1, 2023.

