

By: Senator(s) McDaniel

To: Education

SENATE BILL NO. 2766

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 swears or affirms that the immunization
81 required conflicts with the religious beliefs of the parent or
82 guardian.

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

85 43-20-8. (1) The licensing agency shall have powers and
86 duties as set forth below, in addition to other duties prescribed
87 under this chapter:

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

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

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



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

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

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

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

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

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



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

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

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

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



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

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

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

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

