

ARIZONA STATE SENATE

RESEARCH STAFF



TO: MEMBERS OF THE SENATE
HEALTH & HUMAN SERVICES COMMITTEE

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SUBJECT: Strike everything amendment to SB 1567 relating to employers; vaccinations; religious exemption

Purpose

Prohibits private employers, including health care institutions, from requiring any full-time, part-time or contract employee to be vaccinated for COVID-19 without providing an exemption for religious beliefs, including sincerely held moral or ethical beliefs. Establishes the Health Care Professionals Religious Exemption Fund (Fund). Establishes the Health Care Professional Religious Exemption Committee (Committee) and prescribes Committee requirements.

Background

Current statute requires the Department of Health Services (DHS) to license and oversee all health care institutions in Arizona, including enforcing health care institution statutes, rules and regulations. DHS must: 1) review and approve plans and specifications for institution construction or modification; 2) have access to books, records, accounts and any other necessary health care institution information; and 3) require nursing care institutions and assisted living facilities to provide annual influenza and pneumonia vaccines to residents. Additionally, DHS may: 1) inspect every part of a health care institution to ensure compliance with standard medical practice; 2) conduct investigations of health care institution conditions and problems with noncompliance; and 3) develop facility manuals and guides to health care institutions and the general public ([A.R.S. § 36-406](#)).

A *health care institution* is a place, institution, building or agency that provides facilities with medical services, nursing services, behavioral health services, health screening and other health related services, supervisory care services, personal care services, direct care services, as well as home health agencies, outdoor behavioral health care programs and hospice service agencies ([A.R.S. § 36-401](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

COVID-19 Vaccine Religious Exemption

1. Prohibits private employers, including health care institutions, from requiring any full-time, part-time or contract employee to be vaccinated for COVID-19 without providing an exemption for religious beliefs, including sincerely held moral or ethical beliefs.

2. Prohibits employers from:
 - a) inquiring into the veracity of an employee's religious, moral or ethical beliefs; and
 - b) discriminating against an employee regarding employment, wages or benefits based on vaccination status.
3. Stipulates that employers must allow employees that complete a COVID-19 religious exemption form to opt out of vaccination requirements.
4. Outlines the COVID-19 religious exemption form.
5. Requires employers to keep religious exemption claims in strict confidence within the organization, except to the extent absolutely necessary to process the claim.
6. Prohibits employers from creating a database of religious exemption requests or sharing the requests with any other entity or individual.
7. Specifies that an employer that denies a religious exemption and requires an employee to receive a COVID-19 vaccine as a condition of employment is liable for damages that result from a significant injury caused by the vaccine.
8. Specifies that a claimant who prevails in a suit relating to mandated employee vaccination for COVID-19:
 - a) must be awarded actual damages, court costs and reasonable attorney fees or statutory damages totaling \$500,000, whichever is greater; and
 - b) may additionally recover exemplary damages.

Health Care Institution Violations

9. Permits a terminated employee of a health care institution that did not offer or denied a COVID-19 vaccine religious exemption to file a complaint with DHS.
10. Requires DHS to investigate all complaints relating to vaccine religious exemptions.
11. Requires DHS investigations of religious exemption violations to determine whether:
 - a) the health care institution imposed a COVID-19 vaccine mandate;
 - b) the employee was offered and submitted a proper exemption statement; and
 - c) the employee was terminated as a result of the institution's failure to allow a religious exemption.
12. Requires DHS to notify health care institutions that violate religious exemption requirements of their violation and provide the institution the opportunity to correct the noncompliance.
13. Directs DHS to impose the following civil penalties for any health care institution that does not immediately correct noncompliance with religious exemption requirements:
 - a) \$1,000 or less per violation for health care institutions with less than 100,000 employees.
 - b) \$5,000 or less per violation for health care institutions with 100,000 employees or more.

14. Prohibits DHS from imposing a civil penalty on any health care institution that reinstates a terminated employee with back pay prior to issuance of a final enforcement action.

Health Care Professionals Religious Exemption Fund

15. Establishes the Fund, consisting of monies collected for violations of COVID-19 vaccine religious exemption requirements by health care institutions.
16. Allocates monies collected from violations of religious exemption requirements to the Fund.
17. Requires the Director of DHS to administer the Fund.
18. Specifies that monies in the Fund are continuously appropriated and exempted from statutory lapsing of appropriations requirements.
19. Limits the expenditure of monies in the Fund to costs associated with investigating claims of health care institution violations of COVID-19 vaccine requirements.

Health Care Professional Religious Exemption Committee

20. Establishes the Committee, consisting of the following members:
 - a) two members who are knowledgeable in the complications experienced by health care professionals as a result of being denied a religious exemption for the COVID-19 vaccine, appointed by the Governor;
 - b) four licensed nurses, two of which have been denied a religious exemption for the COVID-19 vaccine, appointed by the Governor;
 - c) one member of the Senate Health & Human Services Committee, appointed by the Senate President;
 - d) one member of the House of Representatives Health and Human Services Committee, appointed by the Speaker of the House of Representatives; and
 - e) one member who represents an organization with experience litigating and representing licensed nurses in challenging vaccine mandates and supporting religious rights, appointed by the Senate President.
21. Directs the Committee to elect a Chairperson at its first meeting.
22. Requires the Committee to:
 - a) examine the challenges of the state's health care professionals who were Arizona residents at the time of termination or coercion to resign from health care institution employment as a result of being denied a religious exemption from COVID-19 vaccination mandates;
 - b) make recommendations to the Legislature regarding how to spend civil penalties collected for violations of COVID-19 vaccine religious exemption requirements; and
 - c) submit a report of the Committee's findings and recommendations to the Governor, President of the Senate, Speaker of the House of Representatives and the Secretary of State by November 1, 2022.

23. Specifies Committee members are not eligible to receive compensation but are eligible for reimbursement of expenses.

24. Repeals the Committee on November 1, 2023.

Miscellaneous

25. Defines *COVID-19* and *functional equivalent termination*.

26. Makes a technical change.

27. Becomes effective on the general effective date.