

HOUSE BILL No. 1001

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-8-1.5-7.5; IC 12-14-30-7; IC 16-18-2-187.8; IC 16-19-4-11; IC 16-39-11; IC 22-5-4.6.

Synopsis: Administrative authority; COVID-19 immunizations. Allows the secretary of family and social services (secretary) to issue a waiver of human services statutory provisions and administrative (Continued next page)

Effective: Upon passage.

**Lehman, Barrett, Jeter, Huston,
Steuerwald, Abbott, Baird, Bartels,
Behning, Borders, Carbaugh, Cherry,
Cook, Davis, DeVon, Ellington, Engleman,
Frye R, Goodrich, Gutwein, Heaton, Heine,
Jordan, Judy, Karickhoff, King, Lauer,
Leonard, Lindauer, Lyness, Manning,
May, McNamara, Miller D, Morris,
Morrison, Negele, O'Brien, Olthoff,
Prescott, Pressel, Rowray, Schaibley,
Slager, Smaltz, Snow, Soliday, Speedy,
Teshka, Thompson, Torr, VanNatter,
Wesco, Zent, Young J, Mayfield**

January 4, 2022, read first time and referred to Committee on Employment, Labor and Pensions.



rules if the secretary determines that the waiver is necessary to claim certain enhanced federal matching funds available to the Medicaid program. Allows the secretary to issue an emergency declaration for purposes of participating in specified authorized federal Supplemental Nutrition Assistance Program (SNAP) emergency allotments. Requires the secretary to prepare and submit any waivers or emergency declarations to the budget committee. Allows the state health commissioner of the state department of health or the commissioner's designated public health authority to issue standing orders, prescriptions, or protocols to administer or dispense certain immunizations for individuals who are at least five years old (current law limits the age for the commissioner's issuance of standing orders, prescriptions, and protocols for individuals who are at least 11 years old). Defines "Indiana governmental entity" and specifies that an Indiana governmental entity (current law refers to a state or local unit) may not issue or require an immunization passport. Provides that an employer may not impose a requirement that employees receive an immunization against COVID-19 unless the employer provides individual exemptions that allow an employee to opt out of the requirement on the basis of medical reasons or religious reasons. Requires an employer to provide employees with an option to submit to testing for the presence of COVID-19 not more than once a week at no cost to the employee in lieu of receiving an immunization against COVID-19. Provides that an employer may not require an employee who has tested positive for and recovered from COVID-19 to receive an immunization against COVID-19 for the six month period following the employee's date of recovery. Provides that an employer may not take an adverse employment action against an employee because the employee has requested or used an exemption from an employer's COVID-19 immunization requirement.



Introduced

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1001

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-8-1.5-7.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. (a) Notwithstanding any**
4 **other law, the secretary, through the offices, may issue a waiver, in**
5 **writing, of provisions of this title and rules adopted under**
6 **IC 4-22-2 concerning provisions of this title if the secretary**
7 **determines that the waiver is necessary to claim any enhanced**
8 **federal matching funds available from:**
9 (1) the federal Families First Coronavirus Response Act;
10 (2) the federal American Rescue Plan Act of 2021; or
11 (3) any other federal law, regulation, guidance, or policy
12 pertaining to COVID-19 (as defined in IC 16-39-11-1) relief;
13 for the Medicaid program or programs funded through Medicaid.
14 (b) Not later than March 1, 2022, and every six (6) months
15 thereafter, the secretary shall prepare and submit a report to the

2022

IN 1001—LS 6280/DI 104



1 **budget committee concerning any waiver issued under subsection**
 2 **(a).**

3 **(c) Nothing in this section may be construed to obligate the**
 4 **secretary to issue a waiver under this section.**

5 **(d) This section expires on the date that the funds described in**
 6 **subsection (a)(1) through (a)(3) are no longer available to the state.**

7 SECTION 2. IC 12-14-30-7 IS ADDED TO THE INDIANA CODE
 8 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]: **Sec. 7. (a) The secretary may issue an**
 10 **emergency declaration for the purpose of participating in SNAP**
 11 **emergency allotments authorized under the federal Families First**
 12 **Coronavirus Response Act.**

13 **(b) Not later than March 1, 2022, the secretary shall prepare**
 14 **and submit a report to the budget committee concerning any**
 15 **emergency declaration issued under this section.**

16 **(c) This section expires March 31, 2022.**

17 SECTION 3. IC 16-18-2-187.8 IS ADDED TO THE INDIANA
 18 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 19 [EFFECTIVE UPON PASSAGE]: **Sec. 187.8. "Indiana governmental**
 20 **entity", for purposes of IC 16-39-11, has the meaning set forth in**
 21 **IC 16-39-11-4.5.**

22 SECTION 4. IC 16-19-4-11, AS AMENDED BY P.L.218-2019,
 23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 UPON PASSAGE]: **Sec. 11. (a) The state health commissioner or the**
 25 **commissioner's designated public health authority who is a licensed**
 26 **prescriber may, as part of the individual's official capacity, issue a**
 27 **standing order, prescription, or protocol that allows a pharmacist to**
 28 **administer or dispense any of the following:**

29 (1) An immunization that is recommended by the federal Centers
 30 for Disease Control and Prevention Advisory Committee on
 31 Immunization Practices for individuals who are not less than
 32 eleven (11) years of age.

33 (2) A smoking cessation product. However, the pharmacist must
 34 inform the patient that the patient must have a follow-up
 35 consultation with the patient's licensed prescriber.

36 (b) This subsection does not apply to a pharmacist. The state health
 37 commissioner or the commissioner's designated public health authority
 38 who is a licensed prescriber may, as part of the individual's official
 39 capacity, issue a standing order, prescription, or protocol that allows an
 40 individual who is licensed, certified, or registered by a board (as
 41 defined in IC 25-1-9-1), and if within the individual's scope of practice,
 42 to administer or dispense an immunization that is recommended by the



1 federal Centers for Disease Control and Prevention Advisory
 2 Committee on Immunization Practices for individuals who are not less
 3 than eleven (11) years of age.

4 (c) A standing order described in subsection (a), **or** (b), **or** (e) must
 5 include the following:

6 (1) The purpose of the order.

7 (2) The eligible recipients.

8 (3) The geographic area covered by the standing order.

9 (4) The procedure for administering or dispensing the
 10 immunization or product.

11 (5) A timeline for renewing or updating the standing order.

12 (d) The state health commissioner or designated public health
 13 authority who issues a standing order, prescription, or protocol under
 14 subsection (a), **or** (b), **or** (e) is immune from civil liability related to the
 15 issuing of the standing order, prescription, or protocol.

16 (e) **Notwithstanding subsection (a) and subsection (b), the state
 17 health commissioner or the commissioner's designated public
 18 health authority may issue a standing order, prescription, or
 19 protocol to administer or dispense an immunization that is
 20 recommended by the federal Centers for Disease Control and
 21 Prevention Advisory Committee on Immunization Practices for
 22 individuals who are at least five (5) years of age. Nothing in this
 23 subsection authorizes the state health commissioner or the
 24 commissioner's designated public health authority to:**

25 (1) **require an individual to receive an immunization for
 26 COVID-19; or**

27 (2) **waive or otherwise allow a minor to receive an
 28 immunization without the parent's consent as required under
 29 IC 16-36-1.**

30 **This subsection expires March 31, 2022.**

31 SECTION 5. IC 16-39-11-4.5 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) As used in this
 34 chapter, "Indiana governmental entity" means:**

35 (1) **the state (as defined in IC 5-11-1-16(b));**

36 (2) **a state educational institution (as defined in
 37 IC 21-7-13-32);**

38 (3) **a political subdivision (as defined in IC 36-1-2-13); or**

39 (4) **a public school corporation (as defined in IC 4-4-38.5-6.2).**

40 (b) **The term does not include the following:**

41 (1) **A state institution (as defined in IC 12-7-2-184).**

42 (2) **A hospital organized or operated under IC 16-22-1**



1 through IC 16-22-5, IC 16-22-8, or IC 16-23-1.

2 SECTION 6. IC 16-39-11-5, AS ADDED BY P.L.196-2021,
3 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b),
5 ~~the state or a local unit~~ **an Indiana governmental entity** may not issue
6 or require an immunization passport.

7 (b) This section does not prohibit ~~the state or a local unit~~ **an**
8 **Indiana governmental entity** from doing any of the following:

9 (1) Maintaining, creating, or storing a medical record of an
10 individual's immunization status.

11 (2) Providing a medical record of an individual's immunization
12 status to the individual's medical provider in accordance with the
13 federal Health Insurance Portability and Accountability Act
14 (HIPAA) (P.L.104-191).

15 (3) Providing the individual with a record of an immunization at
16 the time the individual receives the immunization or upon request
17 by the individual.

18 (4) Maintaining an immunization record for the purpose of public
19 health administration.

20 SECTION 7. IC 22-5-4.6 IS ADDED TO THE INDIANA CODE
21 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]:

23 **Chapter 4.6. Exemptions from COVID-19 Immunization**
24 **Requirements**

25 **Sec. 1. As used in this chapter, "COVID-19" has the meaning set**
26 **forth in IC 34-30-32-3.**

27 **Sec. 2. As used in this chapter, "employee" means an individual**
28 **who is employed by an employer on a full-time or part-time basis.**
29 **The term includes an independent contractor.**

30 **Sec. 3. As used in this chapter, "employer" means a sole**
31 **proprietor, corporation, partnership, limited liability company, or**
32 **other entity with one (1) or more employees. However, the term**
33 **does not include:**

34 (1) **an Indiana governmental entity (as defined in**
35 **IC 16-39-11-4.5); or**

36 (2) **the United States and its agencies and instrumentalities.**

37 **Sec. 4. As used in this chapter, "immunization" means the**
38 **treatment of an individual with a vaccine to produce immunity.**

39 **Sec. 5. (a) An employer may not impose a requirement that**
40 **employees receive an immunization against COVID-19 unless the**
41 **employer provides individual exemptions that allow an employee**
42 **to opt out of the requirement on the basis of any of the following:**



1 (1) Medical reasons.

2 (2) Religious reasons.

3 (b) In addition to the exemption requirements under subsection
4 (a), an employer:

5 (1) must provide the employee with an option to submit to
6 testing for the presence of COVID-19 not more than once a
7 week at no cost to the employee in lieu of receiving an
8 immunization against COVID-19; and

9 (2) may not require an employee who has:

10 (A) tested positive for; and

11 (B) recovered from;

12 COVID-19 to receive an immunization against COVID-19 for
13 the six (6) month period following the employee's date of
14 recovery from COVID-19.

15 (c) An employer may require an employee to submit to testing
16 for the presence of COVID-19, not more than once a week at no
17 cost to the employee, if the employee receives an exemption based
18 on:

19 (1) medical reasons under subsection (a)(1);

20 (2) religious reasons under subsection (a)(2); or

21 (3) prior infection and recovery from COVID-19 under
22 subsection (b)(2).

23 Sec. 6. (a) Unless an employer waives the documentation
24 requirements under this subsection, to claim an exemption based
25 on medical reasons, an employee must present to the employer an
26 exemption statement in writing, dated and signed by:

27 (1) a licensed physician;

28 (2) a licensed physician's assistant; or

29 (3) an advanced practice registered nurse;

30 who has examined the employee. The statement must provide that,
31 in the professional opinion of the licensed physician, licensed
32 physician's assistant, or advanced practice registered nurse, the
33 immunization against COVID-19 is medically contraindicated (as
34 defined in IC 16-18-2-223.7) for the employee.

35 (b) To claim an exemption based on religious reasons, an
36 employee must present to the employer an exemption statement in
37 writing indicating that the employee declines the immunization
38 against COVID-19 because of a sincerely held religious belief.

39 (c) Unless an employer waives the documentation requirements
40 under this subsection, to claim an exemption based on prior
41 infection and recovery from COVID-19, an employee must present
42 to the employer an exemption statement in writing, dated and



1 signed by a licensed physician, a licensed physician's assistant, or
 2 an advanced practice registered nurse indicating that the employee
 3 has:

- 4 (1) tested positive for COVID-19; and
- 5 (2) recovered from COVID-19.

6 The statement must specify the date that the employee recovered
 7 from COVID-19.

8 **Sec. 7. If an employer receives a completed exemption statement
 9 for an exemption based on:**

- 10 (1) medical reasons;
- 11 (2) religious reasons; or
- 12 (3) prior infection and recovery from COVID-19;

13 in accordance with section 6 of this chapter, the employer must
 14 allow the employee to opt out of the employer's COVID-19
 15 immunization requirement as provided in section 5 of this chapter
 16 without further inquiry.

17 **Sec. 8. (a) Except as provided in subsection (b), an employer
 18 may not take an adverse employment action against an employee
 19 because the employee has requested or used an exemption based
 20 on:**

- 21 (1) medical reasons under section 5(a)(1) of this chapter;
- 22 (2) religious reasons under section 5(a)(2) of this chapter;
- 23 (3) an employee's agreement to be subject to testing for the
 24 presence of COVID-19 as set forth in section 5(b)(1) of this
 25 chapter; or
- 26 (4) prior infection and recovery from COVID-19 under
 27 section 5(b)(2) of this chapter.

28 **(b) An employer may take an adverse employment action
 29 against an employee who:**

- 30 (1) has agreed to be subject to testing for the presence of
 31 COVID-19 as set forth in section 5(b)(1) of this chapter; and
- 32 (2) fails to comply with the agreement.

33 **Sec. 9. Nothing in this chapter shall be construed to:**

- 34 (1) require an employer to impose a requirement that
 35 employees receive an immunization against COVID-19; or
- 36 (2) preclude an employer from allowing additional exemptions
 37 from an employer's COVID-19 immunization requirement.

38 **SECTION 8. An emergency is declared for this act.**

