



AN ACT REVISING LAWS RELATED TO THE MEDICAL EXEMPTION TO STUDENT IMMUNIZATION REQUIREMENTS; REVISING REQUIREMENTS FOR IMMUNIZATION FORMS; ESTABLISHING LIMITATIONS ON EXAMINATION AND USE OF IMMUNIZATION RECORDS; AMENDING SECTIONS 20-5-403, 20-5-405, 20-5-406, AND 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-403, MCA, is amended to read:

"20-5-403. Immunization required -- release and acceptance of immunization records. (1) The governing authority of any school other than a postsecondary school may not allow a person to attend as a pupil unless the person:

(a) has been immunized against varicella, diphtheria, pertussis, tetanus, poliomyelitis, rubella, mumps, and measles (rubeola) in the manner and with immunizing agents approved by the department;

(b) has been immunized against Haemophilus influenza type "b" before enrolling in a preschool if under 5 years of age;

(c) qualifies for conditional attendance; or

(d) files for an exemption as provided in 20-5-405.

(2) (a) The governing authority of a postsecondary school may not allow a person to attend as a pupil unless the person:

(i) has been immunized against rubella and measles (rubeola) in the manner and with immunizing agents approved by the department; or

(ii) files for an exemption as provided in 20-5-405.

(b) The governing authority of a postsecondary school may, as a condition of attendance, impose immunization requirements ~~as a condition of attendance~~ that are more stringent than those required by this

part, subject to the exemptions provided for in 20-5-405.

(3) A pupil who transfers from one school district to another may photocopy immunization records in the possession of the school of origin. The school district to which a pupil transfers shall accept the photocopy as evidence of immunization. Within 30 days after a transferring pupil ceases attendance at the school of origin, the school shall retain a certified copy for the permanent record and send the original immunization records for the pupil to the school district to which the pupil transfers."

Section 2. Section 20-5-405, MCA, is amended to read:

"20-5-405. ~~Medical or religious exemption~~ Exemptions -- limitations on agency actions. (1) (a) There is a religious exemption to the immunizations required under 20-5-403. When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school, if an adult, signs and files with the governing authority, prior to the commencement of attendance each school year, A person enrolled or seeking to enroll in school may attend the school without obtaining the immunizations if the person files with the governing authority a notarized affidavit on a form prescribed by the department stating that immunization is contrary to the religious tenets and practices of the signer, immunization of the person seeking to attend the school may not be required prior to attendance at the school.

(b) The statement must be signed:

(i) by the person enrolled or seeking to enroll in the school, if the person is an adult; or

(ii) if the person is a minor, by a parent, guardian, or adult who has the responsibility for the care and custody of the minor.

(c) The statement must be maintained as part of the person's immunization records.

(d) A person who falsely claims a religious exemption is subject to the penalty for false swearing as provided in 45-7-202.

(2) (a) There is a medical exemption to the immunizations required under 20-5-403. When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school, if an adult, files with the governing authority A person enrolled or seeking to enroll in school may attend the school without obtaining the immunizations if a written medical exemption statement signed by a physician licensed to practice medicine in any jurisdiction of the United States or Canada

a health care provider specified in subsection (2)(c) is filed with the governing authority, stating The medical exemption statement must:

(i) attest that the physical condition of the person enrolled or seeking to attend-enroll in school or the medical circumstances relating to the person indicate that some or all of the required immunizations are not considered safe; and

(ii) indicating-indicate the specific nature and probable duration of the medical condition or circumstances that contraindicate immunization;

(b) ~~the~~The person is exempt from the requirements of this part to the extent indicated by the physician's medical exemption statement.

(c) The medical exemption statement must be signed by a person who:

(i) is licensed, certified, or otherwise authorized by the laws of any state or Canada to provide health care as defined in 50-16-504;

(ii) is authorized within the person's scope of practice to administer the immunizations to which the exemption applies; and

(iii) has previously provided health care to the person seeking the exemption or has administered an immunization to which the person seeking an exemption has had an adverse reaction.

(d) The medical exemption statement must be maintained as part of the person's immunization records and may not be photocopied or otherwise duplicated for use by a third party without permission of the student's parent or, if the student is an adult, the written consent of the student.

(3) (a) The department may not require a medical exemption form that imposes requirements that are more burdensome or otherwise in excess of the requirements described in this section. A form prescribed by the department that contains requirements not expressly described in this section is void to the extent that it purports to impose requirements not included in this section.

(b) A governing authority may not deny a medical exemption on the basis that a person has not completed portions of the medical exemption form that are void under this subsection (3).

(c) The department is not authorized to review a completed medical exemption statement or medical exemption form for the purpose of granting or denying a medical exemption.

~~(3)~~(4) Whenever there is good cause to believe that a person for whom an exemption has been filed

under this section has a disease or has been exposed to a disease listed in 20-5-403 or will as the result of school attendance be exposed to the disease, the person may be excluded from the school by the local health officer or the department until the excluding authority is satisfied that the person no longer risks contracting or transmitting that disease."

Section 3. Section 20-5-406, MCA, is amended to read:

"20-5-406. Immunization record. The governing authority of each school shall require written evidence of each pupil's immunization against the diseases listed in 20-5-403 and shall record the immunization status, including any exemptions, of each pupil as part of the pupil's permanent school record ~~on a form prescribed by the department.~~"

Section 4. Section 20-5-408, MCA, is amended to read:

"20-5-408. Enforcement. (1) The governing authority of any school other than a postsecondary school shall prohibit from further attendance any pupil allowed to attend conditionally who has failed to obtain the immunizations required by 20-5-403(1) within time periods established by the department until that pupil has been immunized as required by the department or unless that pupil has been exempted under 20-5-405.

(2) ~~Each~~ The governing authority shall file a written report on the immunization status of all pupils under its jurisdiction with the department and the local health department at times and on forms prescribed by the department conform with the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99.

(3) ~~The local and state health departments shall have access to all information relating to immunization of any pupil in any school.~~

(3) A student's health records, including information related to immunizations received and immunization exemptions, are considered part of the student's education record and are protected from disclosure as provided in the Family Educational Rights and Privacy Act of 1974."

Section 5. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 6. Effective date. [This act] is effective July 1, 2021.

- END -

I hereby certify that the within bill,
HB 334, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 334

INTRODUCED BY J. CARLSON, E. BUTTREY

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