

HOUSE BILL NO. 908

INTRODUCED BY E. STAFMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO SCHOOL AND CHILD CARE CENTER IMMUNIZATION REQUIREMENTS; REQUIRING IMMUNIZATION EDUCATION FOR AN EXEMPTION TO IMMUNIZATION REQUIREMENTS; PROVIDING A RELIGIOUS EXEMPTION ALLOWING PRIVATE SCHOOLS AND CHILD-CARE PROVIDERS TO DECLINE TO ENROLL UNVACCINATED STUDENTS OR CHILDREN; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-5-405, MCA; AND PROVIDING EFFECTIVE DATES."

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

NEW SECTION. **Section 1. Immunization education.** (1) The department shall make the following

available online free of charge to a person seeking a religious exemption pursuant to 20-5-405:

- (a) an immunization education program that meets the requirements of subsection (2); and
- (b) a form for use by a licensed physician or licensed nurse practitioner to verify an educational immunization discussion pursuant to subsection (3). The form must enumerate the minimum discussion requirements contained in subsection (3)(a).

(2) A person seeking a religious exemption may fulfill the requirement for immunization education by completing an immunization education program produced and provided by the department. The immunization education program provided by the department:

- (a) must be designed to take 20 minutes or less to complete; and
- (b) must include at a minimum:
 - (i) information about immunization-preventable illnesses;
 - (ii) recommendations for reducing the likelihood of a nonimmunized person contracting or transmitting an immunization-preventable illness;
 - (iii) information based on the best available science about the benefits and side effects of immunization;

- 1 (iv) interactive questions or activities;
- 2 (v) a certificate of completion that a person may use to verify completion of immunization
- 3 education; and
- 4 (vi) a religious exemption form that is generated after a person completes the module and that may
- 5 be filed with the governing authority pursuant to 20-5-405.

6 (3) (a) A person seeking a religious exemption may fulfill the requirement for immunization

7 education by engaging in an educational immunization discussion with a licensed physician or licensed nurse

8 practitioner. The discussion must include at a minimum:

- 9 (i) information about immunization-preventable illnesses;
- 10 (ii) recommendations for reducing the likelihood of a nonimmunized person contracting or
- 11 transmitting an immunization-preventable illness; and
- 12 (iii) information based on the best available science about the benefits and side effects of
- 13 immunization.

14 (b) The physician or nurse practitioner shall sign and date a form provided by the department

15 pursuant to subsection (1)(b), which the person may use to demonstrate completion of immunization education.

16

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

18 **"20-5-405. Exemptions -- limitations on agency actions.** (1) (a) There is a religious exemption to

19 the immunizations required under 20-5-403. A person enrolled or seeking to enroll in school may attend the

20 school without obtaining the immunizations if the ~~person~~ signer:

21 (i) _____ completes immunization education as provided in [section 1]; and

22 (ii) _____ files with the governing authority;

23 (A) _____ a notarized affidavit on a form prescribed by the department stating that immunization is

24 contrary to the religious tenets and practices of the signer; and

25 (B) _____ documentation that the signer completed immunization education as provided in [section 1].

26 (b) The statement must be signed and the immunization education must be completed:

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

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

1 and custody of the minor.

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

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

5 (2) (a) There is a medical exemption to the immunizations required under 20-5-403. A person
6 enrolled or seeking to enroll in school may attend the school without obtaining the immunizations if a written
7 medical exemption statement signed by a health care provider specified in subsection (2)(c) is filed with the
8 governing authority. The medical exemption statement must:

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

12 (ii) indicate the specific nature and probable duration of the medical condition or circumstances
13 that contraindicate immunization.

14 (b) The person is exempt from the requirements of this part to the extent indicated by the medical
15 exemption statement.

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

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

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

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

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

26 (3) (a) A private school or child-care provider may choose to not enroll students or children with
27 nonmedical exemptions to immunization if the school or provider has a sincere religious belief in immunization
28 as a community health measure.

1 **(b)** A private school or child-care provider may claim a sincere religious belief in immunization if
 2 the owner or the owner's designee:

3 **(i)** completes immunization education as provided in [section 1]; and

4 **(ii)** files with the governing authority:

5 **(A)** a notarized affidavit on a form prescribed by the department stating that nonmedical
 6 immunization exemptions are contrary to the religious tenets and practices of the private school or child-care
 7 provider; and

8 **(B)** documentation that the owner or the owner's designee completed immunization education as
 9 provided in [section 1].

10 **(c)** The department shall maintain a public-facing list on its website of child-care providers and
 11 private schools with a sincerely held religious belief in immunization as a community health measure.

12 ~~(3)~~**(4)** (a) The department may not require a medical exemption form that imposes requirements that
 13 are more burdensome or otherwise in excess of the requirements described in this section. A form prescribed
 14 by the department that contains requirements not expressly described in this section is void to the extent that it
 15 purports to impose requirements not included in this section.

16 **(b)** A governing authority may not deny a medical exemption on the basis that a person has not
 17 completed portions of the medical exemption form that are void under this subsection ~~(3)~~ **(4)**.

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

20 ~~(4)~~**(5)** Whenever there is good cause to believe that a person for whom an exemption has been filed
 21 under this section has a disease or has been exposed to a disease listed in 20-5-403 or will as the result of
 22 school attendance be exposed to the disease, the person may be excluded from the school by the local health
 23 officer or the department until the excluding authority is satisfied that the person no longer risks contracting or
 24 transmitting that disease."

25
 26 **NEW SECTION. Section 3. Appropriation.** There is appropriated \$15,000 from the general fund to
 27 the department of public health and human services for the biennium beginning July 1, 2023, for the purpose of
 28 implementing [section 1] and maintaining the list established in 20-5-405(3).

