

As Pending in the House Health Committee

134th General Assembly

Regular Session

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Sub. H. B. No. 248

Representative Gross

**Cosponsors: Representatives Loychik, Vitale, Fowler Arthur, Click, Creech,
Brinkman, Wiggam, Stoltzfus, Jordan, Dean, Zeltwanger, McClain, Merrin,
Edwards, Ferguson**

A BILL

To amend section 3345.47, to enact section 3792.02, 1
and to repeal sections 1713.55, 3332.25, 2
3345.85, and 3701.133 of the Revised Code to 3
prohibit mandatory vaccinations, vaccination 4
status disclosures, and certain other actions 5
regarding vaccinations and to name this act the 6
Vaccine Choice and Anti-Discrimination Act. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3345.47 be amended and section 8
3792.02 of the Revised Code be enacted to read as follows: 9

Sec. 3345.47. (A) No state university shall require a 10
student to live in on-campus student housing, if the student 11
lives within twenty-five miles of the campus. 12

(B) As used in this section: 13

(1) "On-campus student housing" ~~has the same meaning as in~~ 14
~~section 3345.85 of the Revised Code~~ means a dormitory or other 15
student residence that is owned or operated by, or located on 16

the campus of a state institution of higher education. 17

(2) "State university" has the same meaning as in section 18
3345.011 of the Revised Code. 19

Sec. 3792.02. (A) As used in this section: 20

(1) "Child day-care center" has the same meaning as in 21
section 5104.01 of the Revised Code. 22

(2) "Employer" has the same meaning as in section 4113.51 23
of the Revised Code. 24

(3) "Health care provider" has the same meaning as in 25
section 3701.74 of the Revised Code. 26

(4) "Individual" means an adult or minor, state resident 27
or otherwise. 28

(5) "Insurer" has the same meaning as in section 3902.02 29
of the Revised Code. 30

(6) "Institution" has the same meaning as in section 31
1713.01 of the Revised Code. 32

(7) "Nursing home" and "residential care facility" have 33
the same meanings as in section 3721.01 of the Revised Code. 34

(8) "Patient" means an individual seeking or receiving 35
care or treatment from a health care provider. 36

(9) "Person" has the same meaning as in section 1.59 of 37
the Revised Code. 38

(10) "Political subdivision" means a county, township, 39
municipal corporation, school district, or other body corporate 40
and politic responsible for governmental activities in a 41
geographic area smaller than that of the state. "Political 42
subdivision" also includes a board of health of a city, county, 43

<u>or general health district.</u>	44
<u>(11) "Public agency" has the same meaning as in section 102.01 of the Revised Code.</u>	45 46
<u>(12) "Public official or employee" has the same meaning as in section 102.01 of the Revised Code.</u>	47 48
<u>(13) "Public space" means any of the following:</u>	49
<u>(a) Places of public accommodation;</u>	50
<u>(b) Any building or space, whether indoors or outdoors, that is owned, leased, operated, occupied, or otherwise used by a public body;</u>	51 52 53
<u>(c) Any other building or space, whether indoors or outdoors, that is generally open to the public.</u>	54 55
<u>(14) "School" means a publicly or privately funded school, including an elementary or secondary school for which the state board of education prescribes minimum standards pursuant to section 3301.07 of the Revised Code. "School" also includes a board of education of a city, local, or exempted village school district or governing authority of a school.</u>	56 57 58 59 60 61
<u>(15) "State agency" has the same meaning as in section 1.60 of the Revised Code.</u>	62 63
<u>(16) "Vaccine," "vaccination," and "immunization" means any product manufactured for the purpose of creating acquired immunity to an infectious disease or diseases or the process of administering such a product.</u>	64 65 66 67
<u>(17) "Vaccine status" means whether or not an individual has received a specific vaccination or series of vaccinations.</u>	68 69
<u>(B) It is the policy of this state that individuals have a</u>	70

right to direct their own health care decisions, free from 71
coercion or penalty, and with informed consent, for themselves, 72
their children, their family, and anyone for whom they stand in 73
loco parentis. 74

(1) No person, public official or employee, public agency, 75
state agency, political subdivision, school, child day-care 76
center, nursing home, residential care facility, health care 77
provider, insurer, institution, or employer shall mandate, 78
require, or otherwise request an individual to receive a 79
vaccine, except as provided in sections 3313.671 and 5104.014 of 80
the Revised Code. In the case of those exceptions, all of the 81
following apply: 82

(a) A school that notifies a pupil or the pupil's parent 83
or guardian of the immunization requirements pursuant to section 84
3313.671 of the Revised Code shall notify the pupil and the 85
pupil's parents or guardians of the exemptions from immunization 86
described in that section in the same timing and manner, 87
including text size and font, as it provides notice of the 88
requirements. 89

(b) A school that requires immunizations pursuant to 90
section 3313.671 of the Revised Code shall honor the exemptions 91
from the immunization requirements described in that section. 92

(c) A child day-care center that notifies a child or the 93
child's parent or guardian of the immunization requirements 94
pursuant to section 5104.014 of the Revised Code shall notify 95
the child and the child's parents or guardians of the exemptions 96
from immunization described in that section in the same timing 97
and manner, including text size and font, as it provides notice 98
of the requirements. 99

(d) A child day-care center that requires immunizations 100
pursuant to section 5104.014 of the Revised Code shall honor the 101
exemptions from the immunization requirements described in that 102
section. 103

(C) It is the policy of this state that individuals have a 104
right to expect that their personal privacy rights remain 105
protected, specifically private health information. 106

(1) Except as provided in division (C) (2) of this section, 107
no person, public official or employee, public agency, state 108
agency, political subdivision, school, child day-care center, 109
nursing home, residential care facility, health care provider, 110
insurer, institution, or employer shall do any of the following: 111

(a) Mandate, require, or otherwise request an individual 112
to disclose the individual's vaccine status; 113

(b) Mandate, require, or otherwise request participation 114
in a vaccine passport system, vaccine registry, or other 115
mechanism that is designed for the purpose of tracking an 116
individual's vaccine status; 117

(c) Disclose an individual's vaccination status. 118

(2) (a) Division (C) (1) of this section does not apply to 119
the extent described in sections 3313.671 and 5104.014 of the 120
Revised Code. In such case, a student's or child's vaccine 121
status shall be considered and treated as personally 122
identifiable information pursuant to section 3319.321 of the 123
Revised Code. 124

(b) Division (C) (1) of this section does not apply to a 125
health care provider or insurer as it pertains to patient care, 126
treatment, or billing. In such case, an individual's vaccine 127
status shall be considered and treated as protected health 128

information pursuant to Chapter 3798. of the Revised Code. 129

(3) No person, public official or employee, public agency, 130
state agency, political subdivision, school, child day-care 131
center, nursing home, residential care facility, health care 132
provider, insurer, institution, or employer shall make public an 133
individual's vaccine status. 134

(D) It is the policy of this state that individuals have a 135
right to expect that their personal health choices shall not 136
result in discriminatory treatment. 137

(1) No person, public official or employee, public agency, 138
state agency, political subdivision, school, child day-care 139
center, nursing home, residential care facility, health care 140
provider, insurer, institution, or employer shall do any of the 141
following: 142

(a) Deny service or access to, segregate, require a 143
vaccine status label for, require disease or immunity testing 144
of, penalize as a result of, or otherwise discriminate against 145
an individual based on their refusal to receive a specific 146
vaccination or series of vaccinations, subscribe to a vaccine or 147
immunity passport or tracking system, or provide proof of 148
vaccination for, immunity to, or testing of a specific 149
contagious or infectious disease or diseases; 150

(b) Provide any disposition, service, financial aid, or 151
benefit to an individual that is different from, or is provided 152
in a different manner than, that provided to other individuals 153
based on the individual's refusal to receive a specific 154
vaccination or series of vaccinations, subscribe to a vaccine or 155
immunity passport or tracking system, or provide proof of 156
vaccination for, immunity to, or testing of a specific 157

contagious or infectious disease or diseases; 158

(c) Restrict an individual in any way in the enjoyment of 159
any advantage or privilege enjoyed by others receiving any 160
disposition, service, financial aid, or benefit provided to 161
other individuals based on the individual's refusal to receive a 162
specific vaccination or series of vaccinations, subscribe to a 163
vaccine or immunity passport or tracking system, or provide 164
proof of vaccination for, immunity to, or testing of a specific 165
contagious or infectious disease or diseases; 166

(d) Treat an individual differently from others in 167
determining whether that individual satisfies any admission, 168
enrollment, quota, eligibility, membership, or other requirement 169
or condition that individuals are required to meet in order to 170
be provided any disposition, service, financial aid, or benefit 171
available to other members of the general public; 172

(e) Deny an individual an opportunity to participate in a 173
program through the provision of service or otherwise afford 174
that individual an opportunity to do so that is different from 175
that afforded to other members of the general public; 176

(f) Create, impose, or allow to be imposed any device or 177
method of identification that acts as, or might be considered to 178
be, a vaccine passport that would be required of any citizen 179
seeking to travel, to enter any public space or private 180
property, or to do any business within this state. 181

(E) It is the policy of this state that the success of our 182
state relies largely on the success of the businesses within the 183
state, and therefore the intent to ensure protection of 184
businesses who honor individual's rights to health choice and 185
privacy. 186

No person, public official or employee, public agency, 187
state agency, political subdivision, or insurer shall do any of 188
the following: 189

(1) Deny service to, penalize as a result of, or otherwise 190
discriminate against a business, corporation, business trust, 191
estate, trust, partnership, or association based on the entity's 192
compliance with the intent of this section; 193

(2) Provide any disposition, service, financial aid, or 194
benefit to a business, corporation, business trust, estate, 195
trust, partnership, or association that is different from, or is 196
provided in a different manner than that provided to other 197
businesses, corporations, business trusts, estates, trusts, 198
partnerships, or associations based on the entity's compliance 199
with the intent of this section; 200

(3) Restrict a business, corporation, business trust, 201
estate, trust, partnership, or association in any way in the 202
enjoyment of any advantage or privilege enjoyed by others 203
receiving any disposition, service, financial aid, or benefit 204
provided to other businesses, corporations, business trusts, 205
estates, trusts, partnerships, or associations based on the 206
entity's compliance with the intent of this section. 207

(F) It is the policy of this state that the health choice 208
and privacy of individuals are paramount and shall remain so 209
under all circumstances, even in the presence of emergencies. 210

(1) No public official or employee, public agency, state 211
agency, or political subdivision shall issue any order or 212
proclamation or take other action that violates any provision of 213
this section, under the pretense of an emergency, including a 214
state of emergency as defined in section 107.42 of the Revised 215

<u>Code.</u>	216
<u>(2) No public official or employee, public agency, state agency, or political subdivision shall issue any order or proclamation or take other action that encourages any person, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer to violate any provision of this section.</u>	217 218 219 220 221 222 223 224
<u>(3) No public official or employee, public agency, state agency, or political subdivision shall issue any order or proclamation or take other action that penalizes any person, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer for refusing to violate any provision of this section.</u>	225 226 227 228 229 230 231 232
<u>(G) If an individual believes that a person, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer has violated any provision of this section, the individual may pursue any or all of the following:</u>	233 234 235 236 237 238
<u>(1) Seek relief under Chapter 4112. of the Revised Code;</u>	239
<u>(2) Seek relief through a complaint submitted to the attorney general. If the attorney general, by the attorney general's own inquiries or as a result of complaints, has reasonable cause to believe that any provision of this section has been violated, the attorney general may bring either of the</u>	240 241 242 243 244

<u>following:</u>	245
<u>(a) An action to obtain a declaratory judgment that the</u>	246
<u>act or practice violates this section;</u>	247
<u>(b) An action, with notice as required by Civil Rule 65,</u>	248
<u>to obtain a temporary restraining order, preliminary injunction,</u>	249
<u>or permanent injunction to restrain the act or practice.</u>	250
<u>If the attorney general shows by a preponderance of the</u>	251
<u>evidence that any provision of this section has been violated,</u>	252
<u>the court may issue a temporary restraining order, preliminary</u>	253
<u>injunction, or permanent injunction to restrain and prevent the</u>	254
<u>act or practice. On motion of the attorney general, or on its</u>	255
<u>own motion, the court may also impose any civil penalty that the</u>	256
<u>court considers appropriate.</u>	257
<u>(3) Bring a civil action against the person, public</u>	258
<u>official or employee, public agency, state agency, political</u>	259
<u>subdivision, school, child day-care center, nursing home,</u>	260
<u>residential care facility, health care provider, insurer,</u>	261
<u>institution, or employer in a court of competent jurisdiction.</u>	262
<u>If the plaintiff prevails, the court shall award the plaintiff</u>	263
<u>financial compensation for court costs and attorney's fees, as</u>	264
<u>well as any civil penalty that the court considers appropriate.</u>	265
<u>(H) Notwithstanding section 1.51 of the Revised Code, the</u>	266
<u>provisions of this section prevail over any conflicting</u>	267
<u>provisions in a general law, present or future, to the extent of</u>	268
<u>the conflict, but if any such general law contains a specific</u>	269
<u>exemption from this section, including a specific reference to</u>	270
<u>this section, such general law prevails, but only to the extent</u>	271
<u>of the exemption.</u>	272
Section 2. That existing section 3345.47 of the Revised	273

Code is hereby repealed.	274
Section 3. That sections 1713.55, 3332.25, 3345.85, and 3701.133 of the Revised Code are hereby repealed.	275 276
Section 4. This act shall be known as the Vaccine Choice and Anti-Discrimination Act.	277 278