

Chairman Brown and Members of the Committee,

My name is Nicole Thuotte. I stand before you today in staunch opposition to HB 158. I'm a state employee with the Office of Public Instruction, but I'm here today, with my husband Paul, on my own time to stand up for the rights of our daughter and others like her.

Our daughter, Brielle, is 9 months old. She has a genetic condition that prevents her from making a certain type of white blood cell. My older kids have drawn a parallel to the short term memory disorder in the movie "50 First Dates". In most people, the white blood cells reproduce and copy. Hers do not – and she has to constantly receive new ones – new ones that don't have memory of what she's had before. Therefore, she never builds immunity to disease. Everything is new to her as the batch of cells deplete.

I've listened to many hearings and looked at all the bills currently under consideration this session. The overwhelming theme of legislation this session has been to bring Montana into the current age – updating laws to reflect modernization and technology – especially in regard to education. However, this bill, as amended, will send us back several hundred years.

First, let me say that this bill, as originally written, was not the bill it is in the form you have it today. The original bill only added one additional vaccine, varicella (chicken pox) to the list of required vaccines and gave the Department of Public Health and Human Services the authority to make rules. The only thing remaining from the original draft of this bill is the addition of the varicella vaccine. An amendment made during executive action adds language that parents may now opt out of vaccines for any reason. I encourage you to read the original version of the bill and to compare it to the form it is now in. If the intent of the legislature is to consider allowing parents to opt out of vaccines for personal reasons, it ought to be done in a bill with that intent, so that the proper consideration may be made. Sneaking this provision into a bill that was drafted without that intent wrong and a subversion of the public trust.

Currently only 17 states allow a philosophical, conscientious or personal belief exemption. Of those, at least 3 are considering removing this exemption, including California, Arizona and Washington. Two of those states are currently experiencing outbreaks of the disease.

Second, let me address the substance of the bill. Adding the words "personal" and "personal beliefs" is dangerous. Consider Article 2, Section 3 of the Montana Constitution:

Section 3. INALIENABLE RIGHTS. All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities.

Those that stand up today in support of this bill may say that they have an absolute right to make decisions concerning their right to or not vaccinate their children. What they don't address is their corresponding responsibility. What if their un-vaccinated child were to infect our daughter, who is unable to receive a vaccination, or, what if that illness then causes our child to suffer permanent damage or death? Don't we, as a society, have a corresponding responsibility to protect those that cannot protect themselves? What other laws do we have that intersect personal liberty and

corresponding responsibility? Seat belt usage, speed limits, noise ordinances, public nuisance, compulsory school attendance, just to name a few. There is precedent and we should not make this change without full consideration.

Even the Supreme Court has weighed in on the debate. In the 1905 Supreme Court decision of *Jacobsen v. Massachusetts*, the court upheld the right of the state to mandate the smallpox vaccine. Numerous state court cases have also upheld the right of the state to mandate vaccines (<http://www.nvic.org/vaccine-laws.aspx>).

Finally, let me address the rights of those unable to be vaccinated, those with permanent or temporarily compromised immune systems, those with severe allergies, and those with prior adverse reactions to a vaccine. Do these children not have rights too?

A great example is the recent measles outbreak. Measles is a highly contagious disease, infecting up to 90% of people who are not immune. Compare that to Ebola: A person with Ebola will typically infect only 1 or 2 other people. However, a person with measles will infect 12 to 18 others, assuming no immunity to the disease. According to a Wall Street Journal report (<http://www.wsj.com/articles/how-anti-vaccination-trends-vex-herd-immunity-1423241871>), the spread of measles is controlled by “herd immunity” – meaning that when large numbers are vaccinated, those that aren’t vaccinated are protected. For herd immunity to work, the vaccination rate must be between 92 and 94%. That doesn’t mean someone won’t get the disease, but that’s the number of immunizations necessary to prevent widespread outbreaks. Looking at Montana numbers from the Centers for Disease control, in 2013-2014, the vaccination rate for entering kindergartners was 93.7% (<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6341a1.htm>). If we grant another path to exemptions, that number could well fall below the 92% vaccination rate required for herd immunity.

If the vaccination rate falls below the 92% rate, it may be too dangerous to send our child to public school, a right she has under the MT State Constitution. She will lose her right to a “system of education which will develop the full educational potential of each person”, a right that’s “guaranteed to each person of the state”.

In conclusion, I urge you to table this bill – or remove the amendment. If this legislation is to be passed, it should be done in the light of day, not the secrecy of an amendment. Before opening the path for greater numbers of un-vaccinated children, let all of the facts be heard. I am available for questions should you have any.

Chairman Brown, may I submit my comments to the committee for the record?

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