

1 SENATE BILL NO. 99

2 INTRODUCED BY C. SMITH

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING SCHOOLS TO PROVIDE INFORMATION ON LEGAL
5 OPTIONS TO OPT OUT OF IMMUNIZATION REQUIREMENTS; REQUIRING SCHOOLS TO PROVIDE
6 ACCESS TO FORMS RELATED TO IMMUNIZATION EXEMPTIONS; AMENDING SECTIONS 20-5-403 AND
7 20-5-405, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

12 **"20-5-403. Immunization required -- release and acceptance of immunization records.** (1) The
13 governing authority of any school other than a postsecondary school may not allow a person to attend as a pupil
14 unless the person:

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

17 (b) has been immunized against Haemophilus influenza type "b" before enrolling in a preschool if under
18 5 years of age;

19 (c) qualifies for conditional attendance; or

20 (d) files for an exemption.

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

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

25 (ii) files for an exemption.

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

28 (c) Any communication between a school and a parent, guardian, or adult who has the responsibility for
29 the care and custody of a minor enrolled or seeking to enroll in school or the person enrolled or seeking to enroll
30 in school, if an adult, that provides notice of or otherwise discusses the immunizations required under this section

1 must include a citation to 20-5-405 and information about the exemptions available for opting out of the
 2 immunizations required under that section. If the communication is written, the citation and information must be
 3 printed or displayed in a font at least as large as the one used for the notice of immunizations.

4 (d) For the purposes of this section, "communication" includes but is not limited to letters, e-mails,
 5 brochures, pamphlets, website postings, telephone calls, voicemail, presentations, and social media postings.

6 (3) A pupil who transfers from one school district to another may photocopy immunization records in the
 7 possession of the school of origin. The school district to which a pupil transfers shall accept the photocopy as
 8 evidence of immunization. Within 30 days after a transferring pupil ceases attendance at the school of origin, the
 9 school shall retain a certified copy for the permanent record and send the original immunization records for the
 10 pupil to the school district to which the pupil transfers."
 11

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

13 **"20-5-405. Medical or religious exemption.** (1) When a parent, guardian, or adult who has the
 14 responsibility for the care and custody of a minor enrolled or seeking to attend enroll in school or the person
 15 enrolled or seeking to attend enroll in school, if an adult, signs and files with the governing authority, prior to the
 16 commencement of attendance each school year, a notarized affidavit on a form prescribed by the department
 17 stating that immunization is contrary to the religious tenets and practices of the signer, immunization of the person
 18 seeking to attend the school may not be required prior to attendance at the school. The form prescribed by the
 19 department may not impose requirements in excess of the requirements in this section. A parent, guardian, or
 20 adult who has the responsibility for the care and custody of a minor enrolled or seeking to enroll in school or the
 21 person enrolled or seeking to enroll in school, if an adult, may create and utilize a statement not prescribed by
 22 the department so long as it satisfies the requirements set forth in this section. The statement must be maintained
 23 as part of the person's immunization records. A person who falsely claims a religious exemption is subject to the
 24 penalty for false swearing provided in 45-7-202.

25 (2) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor
 26 enrolled or seeking to attend enroll in school or the person enrolled or seeking to attend enroll in school, if an
 27 adult, files with the governing authority a written statement signed by a physician licensed to practice medicine
 28 in any jurisdiction of the United States or Canada stating that the physical condition of the person enrolled or
 29 seeking to attend enroll in school or medical circumstances relating to the person indicate that some or all of the
 30 required immunizations are not considered safe and indicating the specific nature and probable duration of the

1 medical condition or circumstances that contraindicate immunization, the person is exempt from the requirements
2 of this part to the extent indicated by the physician's statement. The statement must be maintained as part of the
3 person's immunization records.

4 (3) The school shall make any form prescribed by the department under this section available to a
5 parent, guardian, or adult who has the responsibility for the care and custody of a minor enrolled or seeking to
6 enroll in school or the person enrolled or seeking to enroll in school, if an adult, who is considering claiming one
7 of the exemptions allowed under this section. If a school lists its immunization requirements on a web page, the
8 web page must include a link to the current text of this section and links to any forms prescribed by the
9 department under this section.

10 ~~(3)~~(4) Whenever there is good cause to believe that a person for whom an exemption has been filed
11 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
12 attendance be exposed to the disease, the person may be excluded from the school by the local health officer
13 or the department until the excluding authority is satisfied that the person no longer risks contracting or
14 transmitting that disease."

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16 NEW SECTION. Section 3. Notification to tribal governments. The secretary of state shall send a
17 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
18 Chippewa tribe.

19
20 NEW SECTION. Section 4. Effective date. [This act] is effective June 15, 2019.

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