

1 HOUSE BILL NO. 334

2 INTRODUCED BY J. CARLSON, E. BUTTREY

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE MEDICAL EXEMPTION TO
5 STUDENT IMMUNIZATION REQUIREMENTS; ~~ESTABLISHING~~ REVISING REQUIREMENTS FOR ~~MEDICAL~~
6 ~~EXEMPTION~~ IMMUNIZATION FORMS; ESTABLISHING LIMITATIONS ON EXAMINATION AND USE OF
7 IMMUNIZATION RECORDS; AMENDING SECTIONS 20-5-403, 20-5-405, 20-5-406, AND 20-5-408, MCA;
8 AND PROVIDING AN EFFECTIVE DATE."

9

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

11

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

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

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

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

20 (c) qualifies for conditional attendance; or

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

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

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

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

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

1 part, SUBJECT TO THE EXEMPTIONS PROVIDED FOR IN 20-5-405.

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

7

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

9 **"20-5-405. ~~Medical or religious exemption~~ Exemptions -- limitations on agency actions.** (1) (a)

10 There is a religious exemption to the immunizations required under 20-5-403. When a parent, guardian, or adult
11 who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to
12 attend school, if an adult, signs and files with the governing authority, prior to the commencement of attendance
13 each school year, A person enrolled or seeking to enroll in school may attend the school without obtaining the
14 immunizations if the person files with the governing authority a notarized affidavit on a form prescribed by the
15 department stating that immunization is contrary to the religious tenets and practices of the signer,
16 immunization of the person seeking to attend the school may not be required prior to attendance at the school.

17 (b) The statement must be signed:

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

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

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

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

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

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

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

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

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

10 ~~(c) The medical exemption statement must be signed by a person who is licensed, CERTIFIED, OR~~
 11 ~~OTHERWISE AUTHORIZED BY THE LAWS OF ANY STATE OR CANADA to provide health care as defined in 50-16-803(1)~~
 12 ~~in the United States or Canada 50-16-504 IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION~~
 13 ~~and who has:~~

14 (C) THE MEDICAL EXEMPTION STATEMENT MUST BE SIGNED BY A PERSON WHO:

15 (I) IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY THE LAWS OF ANY STATE OR CANADA TO PROVIDE
 16 HEALTH CARE AS DEFINED IN 50-16-504;

17 (II) IS AUTHORIZED WITHIN THE PERSON'S SCOPE OF PRACTICE TO ADMINISTER THE IMMUNIZATIONS TO WHICH
 18 THE EXEMPTION APPLIES; AND

19 ~~(i)(iii)~~ HAS previously provided health care to the person seeking the exemption; or

20 ~~(ii)~~ HAS administered an immunization to which the person SEEKING AN EXEMPTION has had an adverse
 21 reaction.

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

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

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

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

5 ~~(3)~~**(4)** Whenever there is good cause to believe that a person for whom an exemption has been filed
 6 under this section has a disease or has been exposed to a disease listed in 20-5-403 or will as the result of
 7 school attendance be exposed to the disease, the person may be excluded from the school by the local health
 8 officer or the department until the excluding authority is satisfied that the person no longer risks contracting or
 9 transmitting that disease."

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

12 **"20-5-406. Immunization record.** The governing authority of each school shall require written
 13 evidence of each pupil's immunization against the diseases listed in 20-5-403 and shall record the immunization
 14 status, including any exemptions, of each pupil as part of the pupil's permanent school record ~~on a form~~
 15 ~~prescribed by the department."~~

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

18 **"20-5-408. Enforcement.** (1) The governing authority of any school other than a postsecondary
 19 school shall prohibit from further attendance any pupil allowed to attend conditionally who has failed to obtain
 20 the immunizations required by 20-5-403(1) within time periods established by the department until that pupil
 21 has been immunized as required by the department or unless that pupil has been exempted under 20-5-405.

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

26 ~~(3) The local and state health departments shall have access to all~~ All information relating to
 27 immunization of any pupil in any school ~~must be made available to the local and state health departments to~~
 28 view at the school but may not be copied, recorded, photographed, or otherwise replicated by the local or state

1 ~~health department and must remain solely in the school's possession.~~
2 (3) A STUDENT'S HEALTH RECORDS, INCLUDING INFORMATION RELATED TO IMMUNIZATIONS RECEIVED AND
3 IMMUNIZATION EXEMPTIONS, ARE CONSIDERED PART OF THE STUDENT'S EDUCATION RECORD AND ARE PROTECTED
4 FROM DISCLOSURE AS PROVIDED IN THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974."

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

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

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