

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0152.01 Kristen Forrestal x4217

HOUSE BILL 20-1239

HOUSE SPONSORSHIP

Williams D. and Humphrey, Baisley, Geitner, Liston, Neville, Pelton, Ransom, Saine, Sandridge, Van Winkle

SENATE SPONSORSHIP

(None),

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO PROTECT CONSUMERS REGARDING
102 VACCINATIONS, AND, IN CONNECTION THEREWITH, ENACTING
103 THE "VACCINE CONSUMER PROTECTION ACT", WHICH
104 REQUIRES THE DISSEMINATION OF VACCINATION INFORMATION
105 TO PATIENTS, THE COMPLETION OF A VACCINATION
106 CONTRAINDICATION CHECKLIST, AND THE REPORTING OF
107 ADVERSE VACCINE REACTIONS; PROHIBITS THE
108 RECOMMENDATION OR ADMINISTRATION OF A VACCINE TO A
109 MINOR WITHOUT THE CONSENT OF THE MINOR'S PARENT OR
110 GUARDIAN; PROHIBITS CERTAIN ACTIONS AGAINST PERSONS
111 WHO DELAY OR DECLINE VACCINATIONS; AUTHORIZES THE
112 ASSESSMENT OF FINES; AND REQUIRES THE DEPARTMENT OF
113 PUBLIC HEALTH AND ENVIRONMENT TO POST INFORMATION

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

101
102

**ABOUT THE RIGHTS, DUTIES, AND PENALTIES SPECIFIED IN THE
ACT ON ITS WEBSITE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the "Vaccine Consumer Protection Act" (Act), which Act:

- ! Requires health care providers and health care facilities to provide vaccine information to patients;
- ! Requires health care providers and health care facilities that recommend or administer a vaccine to a patient to ensure that the patient or the patient's parent or guardian completes a vaccination contraindication checklist created by the state board of health;
- ! Requires health care providers and health care facilities to report vaccine adverse events to the federal vaccine adverse event reporting system;
- ! Prohibits health care providers and health care facilities from recommending or administering a vaccine to a patient who is under 18 years of age without the consent of the patient's parent or guardian;
- ! Prohibits health care providers, health care facilities, health insurers, and schools from treating people who delay or decline vaccinations differently than people who have received vaccinations;
- ! Authorizes the assessment of fines for violations of the Act; and
- ! Requires the department of public health and environment to post specific vaccine information on its website.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25-4-911 as
3 follows:

4 **25-4-911. Vaccine consumer protection - health care**

1 **providers' and health care facilities' duties - informed consent -**
2 **reporting - prohibited activities - penalties - rules - short title.**

3 (1) THE SHORT TITLE OF THIS SECTION IS THE "VACCINE CONSUMER
4 PROTECTION ACT".

5 (2)(a) A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY THAT
6 RECOMMENDS OR ADMINISTERS A VACCINE TO A PATIENT SHALL PROVIDE
7 TO THE PATIENT OR, IF THE PATIENT IS AN UNEMANCIPATED MINOR, TO THE
8 PATIENT'S PARENT OR GUARDIAN, PRIOR TO ADMINISTERING THE VACCINE,
9 INFORMATION THAT IDENTIFIES THE RISKS AND BENEFITS OF THE VACCINE
10 BASED ON THE PATIENT'S HEALTH RECORD AND THE RIGHT OF THE PATIENT
11 OR, IF THE PATIENT IS AN UNEMANCIPATED MINOR, THE PATIENT'S PARENT
12 OR GUARDIAN TO ACCEPT OR REFUSE THE VACCINE.

13 (b) THE INFORMATION PROVIDED PURSUANT TO SUBSECTION (2)(a)
14 OF THIS SECTION MUST BE IN WRITING AND SIGNED BY THE PATIENT OR, IF
15 THE PATIENT IS AN UNEMANCIPATED MINOR, THE PATIENT'S PARENT OR
16 GUARDIAN AND MUST INCLUDE:

17 (I) THE NAME AND MANUFACTURER OF THE VACCINE;

18 (II) THE INGREDIENTS OF THE VACCINE, INCLUDING EXCIPIENTS
19 AND ADJUVANTS;

20 (III) THE WEBSITE OF THE MANUFACTURER WHERE THE PATIENT,
21 PARENT, OR GUARDIAN CAN ACCESS THE VACCINE MANUFACTURER'S
22 PRODUCT INSERT FOR DISCLOSED CONTRAINDICATIONS AND ADVERSE
23 EVENTS AND ANY RELATED INFORMATION;

24 (IV) THE WEBSITE OF THE FEDERAL HEALTH RESOURCES AND
25 SERVICES ADMINISTRATION OR ITS SUCCESSOR ORGANIZATION WHERE THE
26 PATIENT, PARENT, OR GUARDIAN CAN REVIEW REPORTED ADVERSE
27 EFFECTS AND RECALLS OF VACCINES AND ACCESS THE VACCINE INJURY

1 COMPENSATION PROGRAM AND VACCINE INJURY TABLE;

2 (V) THE WEBSITE OF THE FEDERAL FOOD AND DRUG
3 ADMINISTRATION TO ACCESS VACCINE RECALL INFORMATION;

4 (VI) PATIENT EXEMPTION RIGHTS, INCLUDING EXEMPTIONS FROM
5 VACCINATIONS FOR MEDICAL, PERSONAL, OR RELIGIOUS REASONS;

6 (VII) RIGHTS CONCERNING IMMUNIZATION DATA COLLECTION BY
7 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

8 (VIII) THE LIMITATIONS ON LIABILITY FOR A PERSON WHO
9 ADMINISTERS A VACCINE;

10 (IX) ANY INCENTIVES RECEIVED BY THE HEALTH CARE PROVIDER
11 OR HEALTH CARE FACILITY RELATED TO VACCINATION SERVICES;

12 (X) THE RISKS OF CONTRACTING THE DISEASE OR ILLNESS FOR
13 WHICH THE VACCINE IS GIVEN;

14 (XI) THE NAME, MANUFACTURER, AND INGREDIENTS OF ANY
15 VACCINES SCHEDULED TO BE ADMINISTERED AT THE PATIENT'S NEXT
16 APPOINTMENT; AND

17 (XII) NOTIFICATION OF THE PATIENT'S RIGHT OF ACTION AGAINST
18 A VACCINE MANUFACTURER FOR AN INJURY RESULTING FROM THE
19 VACCINE THAT WAS NOT SPECIFIED IN THE MANUFACTURER'S PRODUCT
20 INSERT.

21 (3)(a) IN ADDITION TO PROVIDING THE INFORMATION REQUIRED BY
22 SUBSECTION (2) OF THIS SECTION, PRIOR TO ADMINISTERING A VACCINE TO
23 A PATIENT UNDER EIGHTEEN YEARS OF AGE, A HEALTH CARE PROVIDER OR
24 HEALTH CARE FACILITY SHALL ENSURE THAT THE PATIENT'S PARENT OR
25 GUARDIAN OR, IF THE PATIENT IS AN EMANCIPATED MINOR, THE PATIENT
26 HAS COMPLETED THE VACCINATION CONTRAINDICATION CHECKLIST
27 CREATED BY RULE OF THE STATE BOARD OF HEALTH PURSUANT TO

1 SUBSECTION (3)(b) OF THIS SECTION.

2 (b) ON OR BEFORE JANUARY 1, 2021, THE STATE BOARD OF HEALTH
3 SHALL, BY RULE, CREATE A SCREENING CHECKLIST OF CONTRAINDICATIONS
4 TO VACCINES FOR PATIENTS WHO ARE UNDER EIGHTEEN YEARS OF AGE.
5 THE CHECKLIST MUST INCLUDE QUESTIONS CONCERNING THE PATIENT'S
6 CURRENT HEALTH STATUS; ALLERGIES; PREVIOUS VACCINES, INCLUDING
7 ANY SERIOUS ADVERSE REACTIONS TO VACCINES; LONG-TERM HEALTH
8 ISSUES; FAMILY HISTORY OF SEIZURES AND BRAIN OR NERVOUS DISORDERS;
9 FAMILY MEMBERS WHO EXPERIENCED ADVERSE REACTIONS TO A VACCINE;
10 AND IMMUNE SYSTEM PROBLEMS OR FAMILY HISTORY OF IMMUNE SYSTEM
11 PROBLEMS.

12 (4) A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY THAT
13 OBSERVES A PATIENT EXPERIENCE AN ADVERSE EVENT AS A RESULT OF A
14 VACCINE, OR THAT RECEIVES A REPORT FROM A PATIENT OR A PATIENT'S
15 PARENT OR GUARDIAN THAT THE PATIENT HAS RECENTLY EXPERIENCED AN
16 ADVERSE EVENT AS A RESULT OF A VACCINE, SHALL REPORT THE ADVERSE
17 EVENT IN A TIMELY MANNER TO THE FEDERAL VACCINE ADVERSE EVENT
18 REPORTING SYSTEM SPONSORED BY THE CENTERS FOR DISEASE CONTROL
19 AND PREVENTION AND THE FOOD AND DRUG ADMINISTRATION IN THE
20 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, OR A
21 SUCCESSOR REPORTING SYSTEM, AND RECORD THE VACCINE ADVERSE
22 EVENT IN THE PATIENT'S MEDICAL RECORD.

23 (5) (a) A HEALTH CARE PROVIDER OR A HEALTH CARE FACILITY
24 SHALL NOT:

25 (I) LIMIT OR DENY HEALTH CARE SERVICES OR BENEFITS TO A
26 PATIENT OR HARASS, COERCE, SCOLD, OR THREATEN A PATIENT OR A
27 PATIENT'S PARENT OR GUARDIAN BECAUSE THE PATIENT OR THE PATIENT'S

1 PARENT OR GUARDIAN DELAYED OR DECLINED A VACCINATION; OR

2 (II) RECOMMEND OR ADMINISTER A VACCINE TO A PATIENT WHO
3 IS UNDER EIGHTEEN YEARS OF AGE AND IS NOT EMANCIPATED WITHOUT
4 THE CONSENT OF THE PATIENT'S PARENT OR GUARDIAN.

5 (b) A HEALTH INSURER SHALL NOT DENY ANY TYPE OF INSURANCE,
6 INCREASE INSURANCE PREMIUMS, OR OTHERWISE TREAT AN INSURED
7 INDIVIDUAL WHO HAS DELAYED OR DECLINED A VACCINATION
8 DIFFERENTLY THAN AN INSURED INDIVIDUAL WHO HAS RECEIVED A
9 VACCINATION.

10 (c) (I) A SCHOOL SHALL NOT DISMISS, SUSPEND, OR REFUSE TO
11 ADMIT A STUDENT WHO HAS CLAIMED AN EXEMPTION FROM
12 IMMUNIZATION IN THE MANNER SPECIFIED IN SECTION 25-4-903.

13 (II) A STUDENT OR THE PARENT OR GUARDIAN OF A STUDENT WHO
14 CLAIMS AN EXEMPTION PURSUANT TO SECTION 25-4-903 IS NOT REQUIRED
15 TO SUBMIT A STATEMENT OF EXEMPTION IN PERSON TO THE DEPARTMENT
16 OF PUBLIC HEALTH AND ENVIRONMENT OR ANY OTHER STATE AGENCY OR
17 THE APPLICABLE COUNTY OR DISTRICT PUBLIC HEALTH AGENCY IN ORDER
18 TO CLAIM THE EXEMPTION.

19 (6) (a) A HEALTH CARE PROVIDER, HEALTH CARE FACILITY,
20 HEALTH INSURER, OR SCHOOL THAT VIOLATES A REQUIREMENT OR
21 PROHIBITION SPECIFIED IN SUBSECTIONS (2) TO (5) OF THIS SECTION MAY
22 BE SUBJECT TO A CIVIL PENALTY ASSESSED BY THE STATE AGENCY OR
23 LICENSING OR REGULATORY BOARD THAT HAS JURISDICTION OVER THE
24 HEALTH CARE PROVIDER, HEALTH CARE FACILITY, HEALTH INSURER, OR
25 SCHOOL, AFTER A HEARING IN ACCORDANCE WITH SECTION 24-4-105, OF
26 UP TO ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION AND UP TO FIVE
27 THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION.

1 (b) IN DETERMINING THE AMOUNT OF ANY FINE TO BE ASSESSED AT
2 THE HEARING CONDUCTED PURSUANT TO SUBSECTION (6)(a) OF THIS
3 SECTION, THE STATE AGENCY OR LICENSING OR REGULATORY BOARD
4 SHALL CONSIDER:

5 (I) THE SCOPE AND SEVERITY OF THE VIOLATION, INCLUDING THE
6 NUMBER OF PEOPLE AFFECTED BY EACH VIOLATION;

7 (II) ANY ACTION TAKEN BY THE HEALTH CARE PROVIDER, HEALTH
8 CARE FACILITY, HEALTH INSURER, OR SCHOOL TO REMEDY THE VIOLATION;
9 AND

10 (III) THE NUMBER OF PREVIOUS VIOLATIONS BY THE HEALTH CARE
11 PROVIDER, HEALTH CARE FACILITY, HEALTH INSURER, OR SCHOOL.

12 (7) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
13 SHALL PUBLISH ON ITS WEBSITE A SUMMARY OF THE RIGHTS, DUTIES, AND
14 PENALTIES OUTLINED IN SUBSECTIONS (2) TO (6) OF THIS SECTION.

15 **SECTION 2. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2020 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.