

MAINE STATE LEGISLATURE

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ROFS

HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 635, L.D. 867, "An Act To Prohibit Mandatory COVID-19 Vaccinations for 5 Years To Allow for Safety Testing and Investigations into Reproductive Harm"

Amend the bill by striking out the title and substituting the following:

'An Act To Prohibit the State from Mandating COVID-19 Vaccinations'

Amend the bill by striking out the the emergency preamble and substituting the following:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this State is responsible for ensuring that individuals lawfully residing in this State have the right to provide or withhold consent for any medical treatment; and

Whereas, the decision in Canterbury v. Spence, 464 F.2d 772 (D.C. Cir. 1972), establishing the concept of informed consent in medical treatment, has become a bedrock principle of the laws of this country and of each state; and

Whereas, the American Medical Association's Code of Medical Ethics Opinion 2.1.1 recognizes the right of an individual to be fully informed of a recommended medical treatment to allow the individual to make an informed decision regarding the individual's course of treatment, including whether to obtain or decline a particular medical treatment; and

Whereas, under 42 Code of Federal Regulations, Section 482.13, a hospital is required as a condition of participation in Medicare to have in place a process for obtaining the informed consent of a patient before providing treatment to the patient and to ensure the patient or the patient's representative, as allowed by state law, has the right to make informed decisions regarding the patient's care; and

Whereas, although the United States Supreme Court upheld mandatory vaccination policies imposed by state and local governments to combat smallpox in Jacobson v.

COMMITTEE AMENDMENT

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1 *Massachusetts*, 197 U.S. 11 (1905), the United States Supreme Court recognized in
2 *Pruneyard Shopping Center v. Robins*, 447 U.S. 74 (1980) that a state may provide
3 individual liberties more expansive than those conferred by the United States Constitution;
4 and

5 **Whereas**, persons inside and outside this State have sought or are seeking to compel
6 or coerce individuals lawfully residing in this State to be vaccinated against COVID-19
7 contrary to their preferences; and

8 **Whereas**, any attempt to compel or coerce an individual lawfully residing in this State
9 to be vaccinated against COVID-19 contrary to the individual's preferences is inconsistent
10 with the principles of informed consent; and

11 **Whereas**, the COVID-19 vaccine carries the risk of injury and death to both healthy
12 and vulnerable individuals; and

13 **Whereas**, in the judgment of the Legislature, these facts create an emergency within
14 the meaning of the Constitution of Maine and require the following legislation as
15 immediately necessary for the preservation of the public peace, health and safety; now,
16 therefore,'

17 Amend the bill by striking out everything after the enacting clause and inserting the
18 following:

19 **'Sec. 1. 5 MRSA c. 505** is enacted to read:

20 **CHAPTER 505**

21 **COVID-19 VACCINATIONS**

22 **§19351. Prohibition on mandatory COVID-19 vaccinations**

23 Notwithstanding any provision of law to the contrary, the State is prohibited from
24 imposing upon any resident of the State, including students, mandatory vaccinations for
25 coronavirus disease 2019, referred to as COVID-19.

26 **Sec. 2. 20-A MRSA §6354, sub-§1**, as corrected by RR 2019, c. 2, Pt. B, §18, is
27 amended to read:

28 **1. Immunization required.** Except as otherwise provided under this subchapter and
29 with the exception of the vaccination for coronavirus disease 2019, referred to as
30 COVID-19, every parent shall cause to be administered to that parent's child an adequate
31 dosage of an immunizing agent against each disease.

32 **Sec. 3. 20-A MRSA §6358, sub-§1**, as corrected by RR 2019, c. 1, Pt. A, §17, is
33 amended to read:

34 **1. Rules authorized.** The commissioner and the Director of the Maine Center for
35 Disease Control and Prevention within the Department of Health and Human Services shall
36 jointly issue rules necessary for the effective implementation of this subchapter, including,
37 but not limited to, rules specifying those diseases for which immunization is required and
38 establishing school record keeping and reporting requirements or guidelines and
39 procedures for the exclusion of nonimmunized children from school. The rules may not

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1 include any provision governing medical exemptions and may not include a requirement
2 that a student be immunized against coronavirus disease 2019, referred to as COVID-19.
3 Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5,
4 chapter 375, subchapter 2-A except that rules adopted pursuant to this subchapter
5 specifying the diseases for which immunization is required are major substantive rules as
6 defined in Title 5, chapter 375, subchapter 2-A.

7 **Sec. 4. 20-A MRSA §6358, sub-§2**, as enacted by PL 1983, c. 661, §8, is amended
8 to read:

9 **2. Local requirements authorized.** Immunization requirements more stringent than
10 the provisions of this subchapter may be adopted by ordinance enacted by a municipality,
11 by regulation of a school board or by policy of a private school's governing board, except
12 that a school board or a private school's governing board may not adopt a regulation, policy
13 or other requirement that a student be immunized against coronavirus disease 2019,
14 referred to as COVID-19.

15 **Sec. 5. 20-A MRSA §6359, sub-§6**, as amended by PL 2019, c. 154, §7, is further
16 amended to read:

17 **6. Rules; requirements; reports.** The Director of the Maine Center for Disease
18 Control and Prevention within the Department of Health and Human Services shall adopt
19 rules necessary for the effective implementation of this subchapter, including, but not
20 limited to, rules establishing immunization requirements for each disease, school record
21 keeping and reporting requirements or guidelines and procedures for the exclusion of
22 nonimmunized students from school. The rules may not include any provision governing
23 medical exemptions and may not include a requirement that a student be immunized against
24 coronavirus disease 2019, referred to as COVID-19. Rules adopted pursuant to this
25 subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A,
26 except that rules adopted pursuant to this subchapter specifying the diseases for which
27 immunization is required are major substantive rules as defined in Title 5, chapter 375,
28 subchapter 2-A.

29 Immunization requirements more stringent than the provisions of this subchapter may be
30 adopted by a school board or by policy of a private school's governing board, except that a
31 school board or a private school's governing board may not adopt a regulation, policy or
32 other requirement that a student be immunized against coronavirus disease 2019, referred
33 to as COVID-19.

34 **Sec. 6. 26 MRSA §565**, as amended by PL 2021, c. 103, §1, is further amended to
35 read:

36 **§565. Powers and duties of board**

37 The board shall formulate and adopt reasonable rules, pursuant to Title 5, chapter 375,
38 subchapter 2, for safe and healthful working conditions, including rules requiring the use
39 of personal protective equipment, monitoring and record keeping, except that a rule may
40 not include a requirement that an employee be immunized against coronavirus disease
41 2019, referred to as COVID-19. The rules must at a minimum conform to federal standards
42 of occupational safety and health so that the state program can be federally approved as a
43 public employee only occupational safety and health program.'

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1 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
2 number to read consecutively.

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SUMMARY

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This amendment replaces the bill. It changes the title to reflect the removal from the bill of the 5-year limitation on the prohibition of mandatory COVID-19 vaccines and requirements for safety testing and investigations into reproductive harm. It amends the emergency preamble, and it replaces the 5-year prohibition of state-mandated COVID-19 vaccinations with a prohibition on state-mandated COVID-19 vaccinations for all state residents, including specifically students and public employees.

10

FISCAL NOTE REQUIRED

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(See attached)



130th MAINE LEGISLATURE

LD 867

LR 497(02)

An Act To Prohibit Mandatory COVID-19 Vaccinations for 5 Years To Allow for Safety Testing and Investigations into Reproductive Harm

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-768)
Committee: Health and Human Services
Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - Quasi-independent state entities

Fiscal Detail and Notes

Prohibiting the State from mandating COVID-19 vaccinations for all state residents, including students and public employees, will result in increased costs to those quasi-independent state entities that choose to implement or expand precautionary measures, including the testing of all employees and students for the COVID-19 virus, in order to monitor and address the spread of the virus at their facilities.