

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 98
Committee Substitute Favorable 3/21/23
PROPOSED COMMITTEE SUBSTITUTE H98-PCS40279-RN-6

Short Title: Medical Freedom Act.

(Public)

Sponsors:

Referred to:

February 14, 2023

1 A BILL TO BE ENTITLED
2 AN ACT PROHIBITING STATE AGENCIES, LOCAL GOVERNMENTS, AND POLITICAL
3 SUBDIVISIONS OF THE STATE FROM DISCRIMINATING AGAINST PERSONS
4 BASED ON THEIR REFUSAL TO PROVIDE PROOF OF A COVID-19 VACCINATION,
5 OR TO SUBMIT TO A COVID-19 VACCINATION, UNLESS THE VACCINATION IS
6 REQUIRED AS A CONDITION NECESSARY TO RECEIVE FEDERAL FUNDING, IS
7 A FEDERAL REQUIREMENT OF THE CENTERS FOR MEDICARE AND MEDICAID
8 SERVICES (CMS), OR IS REQUIRED BY THE DEPARTMENT OF HEALTH AND
9 HUMAN SERVICES, DIVISION OF STATE OPERATED HEALTHCARE FACILITIES.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** Article 10 of Chapter 143 of the General Statutes is amended by adding
12 a new section to read:

13 **"§ 143-162.6. Discrimination against persons based on refusal of COVID-19 vaccination**
14 **and exemption.**

15 (a) No State agency, city, county, or political subdivision of the State shall deny or refuse
16 employment to any person or discharge any person from employment due to the person's refusal
17 to provide proof of a COVID-19 vaccination or the person's refusal to submit to a COVID-19
18 vaccination or a series of COVID-19 vaccinations, unless the exemption in subsection (c) of this
19 section applies. This section shall not be construed to prevent the person from being discharged
20 for cause. As used in this section, the term "COVID-19" means the coronavirus disease of 2019.

21 (b) No State agency, city, county, or political subdivision of the State shall discriminate
22 or take any retaliatory action against an employee because the employee in good faith does or
23 threatens to file a claim or complaint; initiate any inquiry, investigation, inspection, proceeding,
24 or other action; or testify or provide information to any person with respect to the provisions of
25 subsection (a) of this section.

26 (c) An exemption to subsections (a) and (b) of this section applies to the following:

27 (1) Any employee, vendor, volunteer, trainee, or student, that is required by a
28 facility certified by the Centers for Medicare and Medicaid Services to show
29 proof of a COVID-19 vaccination, or to submit to a COVID-19 vaccination
30 or COVID-19 series of vaccinations.

31 (2) An employee employed by any entity that receives federal funding if
32 complying with subsection (a) or (b) of this section would result in the loss of
33 that federal funding.



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- 1 (3) An employee employed by the Department of Health and Human Services in
2 the Division of State Operated Healthcare Facilities if the Department requires
3 the COVID-19 vaccination or series of vaccinations for that employee."

4 **SECTION 2.** Part 2 of Article 6 of Chapter 130A of the General Statutes is amended
5 by adding a new section to read:

6 "**§ 130A-158.3. COVID-19 vaccination requirement prohibited; exemption.**

7 (a) Notwithstanding any provision of this Chapter or Chapter 166A of the General
8 Statutes to the contrary, no State or local public health agency or State or local public health
9 official may require any person, including an applicant for employment or an employee, to
10 provide proof of a COVID-19 vaccination or to submit to a COVID-19 vaccination or series of
11 COVID-19 vaccinations unless the exemption in subsection (b) of this section applies. For
12 purposes of this section, the following definitions apply:

13 (1) Applicant for employment. – Any person who seeks to be permitted, required,
14 or directed by a State or local public health agency, or any person employed
15 by a State or local public health agency, to engage in employment in
16 consideration of direct or indirect gain or profit.

17 (2) COVID-19. – The coronavirus disease 2019.

18 (3) Employee. – Any individual employed by a State or local public health
19 agency.

20 (4) State or local public health agency. – Includes the following:

21 a. The Department or any of its divisions.

22 b. The Commission for Public Health or any district created by the
23 Commission pursuant to subsection (d) of G.S. 130A-29.

24 c. A local health department as defined in subdivision (5) of
25 G.S. 130A-2.

26 (5) State or local public health official. – Includes the following:

27 a. The Secretary or a designee.

28 b. The State Health Director or a designee.

29 c. The head of any State or local public health agency or a designee.

30 (b) An exemption to subsection (a) of this section applies to the following:

31 (1) Any employee, vendor, volunteer, trainee, or student, that is required by a
32 facility certified by the Centers for Medicare and Medicaid Services to show
33 proof of a COVID-19 vaccination, or to submit to a COVID-19 vaccination
34 or COVID-19 series of vaccinations.

35 (2) An employee employed by any entity that receives federal funding if
36 complying with subsection (a) of this section would result in the loss of that
37 federal funding.

38 (3) An employee employed by the Department of Health and Human Services in
39 the Division of State Operated Healthcare Facilities if the Department requires
40 the COVID-19 vaccination or series of vaccinations for that employee."

41 **SECTION 3.** Article 23 of Chapter 153A of the General Statutes is amended by
42 adding a new section to read:

43 "**§ 153A-461. COVID-19 vaccination requirement prohibited; exemption.**

44 (a) No county may require any person, including an applicant for employment or an
45 employee, to provide proof of a COVID-19 vaccination or to submit to a COVID-19 vaccination
46 or a series of COVID-19 vaccinations, unless the exemption in subsection (b) of this section
47 applies. For purposes of this section, the following definitions apply:

48 (1) Applicant for employment. – Any person who seeks to be permitted, required,
49 or directed by a county or any person employed by a county to engage in
50 employment in consideration of direct or indirect gain or profit.

51 (2) COVID-19. – The coronavirus disease 2019.

- 1 (3) Employee. – As defined in G.S. 153A-99(b)(1).
- 2 (b) An exemption to subsection (a) of this section applies to the following:
- 3 (1) Any employee, vendor, volunteer, trainee, or student, that is required by a
4 facility certified by the Centers for Medicare and Medicaid Services to show
5 proof of a COVID-19 vaccination, or to submit to a COVID-19 vaccination
6 or COVID-19 series of vaccinations.
- 7 (2) An employee employed by any entity that receives federal funding if
8 complying with subsection (a) of this section would result in the loss of that
9 federal funding.
- 10 (3) An employee employed by the Department of Health and Human Services in
11 the Division of State Operated Healthcare Facilities if the Department requires
12 the COVID-19 vaccination or series of vaccinations for that employee."

13 **SECTION 4.** Article 21 of Chapter 160A of the General Statutes is amended by
14 adding a new section to read:

15 "**§ 160A-499.6. COVID-19 vaccination; requirement prohibited and exemption.**

16 (a) No city may require any person, including an applicant for employment or an
17 employee, to provide proof of a COVID-19 vaccination or to submit to a COVID-19 vaccination
18 or a series of COVID-19 vaccinations, unless the exemption in subsection (b) of this section
19 applies. For purposes of this section, the following definitions apply:

- 20 (1) Applicant for employment. – Any person who seeks to be permitted, required,
21 or directed by a city or any person employed by a city to engage in
22 employment in consideration of direct or indirect gain or profit.
- 23 (2) COVID-19. – The coronavirus disease 2019.
- 24 (3) Employee. – As defined in G.S. 160A-169(b)(1).
- 25 (b) An exemption to subsection (a) of this section applies to the following:
- 26 (1) Any employee, vendor, volunteer, trainee, or student, that is required by a
27 facility certified by the Centers for Medicare and Medicaid Services to show
28 proof of a COVID-19 vaccination, or to submit to a COVID-19 vaccination
29 or COVID-19 series of vaccinations.
- 30 (2) An employee employed by any entity that receives federal funding if
31 complying with subsection (a) of this section would result in the loss of that
32 federal funding.
- 33 (3) An employee employed by the Department of Health and Human Services in
34 the Division of State Operated Healthcare Facilities if the Department requires
35 the COVID-19 vaccination or series of vaccinations for that employee."

36 **SECTION 5.** G.S. 130A-152 reads as rewritten:

37 "**§ 130A-152. Immunization required.**

38 (a) Every child present in this State shall be immunized against diphtheria, tetanus,
39 whooping cough, poliomyelitis, red measles (rubeola) and rubella. In addition, except as
40 provided in subsection (f) of this section, every child present in this State shall be immunized
41 against any other disease upon a determination by the Commission that the immunization is in
42 the interest of the public health. Every parent, guardian, person in loco parentis and person or
43 agency, whether governmental or private, with legal custody of a child shall have the
44 responsibility to ensure that the child has received the required immunization at the age required
45 by the Commission. If a child has not received the required immunizations by the specified age,
46 the responsible person shall obtain the required immunization for the child as soon as possible
47 after the lack of the required immunization is determined.

48 ...

49 (f) Notwithstanding this section or other applicable State law, the Commission for Public
50 Health, public school units, community colleges, and constituent institutions of The University
51 of North Carolina are prohibited from requiring a student to provide proof of vaccination against

1 the coronavirus disease 2019 (COVID-19) or to submit to a COVID-19 vaccination or series of
2 COVID-19 vaccinations unless the requirement for vaccination or proof of vaccination is
3 required for participating in a program of study, or fulfilling education requirements for a
4 program, that requires working, volunteering, or training in a facility certified by the Centers for
5 Medicare and Medicaid Services."

6 **SECTION 6.** Section 1 of this act becomes effective January 1, 2024, and applies to
7 employment actions taken on or after that date. The remainder of this act becomes effective
8 January 1, 2024.