



SENATE BILL 173: Free the Smiles Act.

2021-2022 General Assembly

Committee: House Education - K-12	Date: February 17, 2022
Introduced by: Sens. Krawiec, Burgin, Perry	Prepared by: Kara McCraw and Samantha Yarborough
Analysis of: Conference Committee Substitute (S173-CCSTC-6)	Staff Attorneys

OVERVIEW: *The Conference Committee Substitute for SB 173 would do the following:*

- Allow parents to opt their children out of face covering requirements in public school units.
- Prohibit children not wearing face coverings from being treated differently than children wearing face coverings.
- Limit the liability for public school units when allowing parental opt-out of face covering requirements, unless the act or omission amounts to gross negligence, willful or wanton conduct, or intentional wrongdoing.
- Repeal the requirement for monthly votes on face covering policies in public school units for the current school year.

CURRENT LAW: Sec. 10 of S.L. 2021-130 requires, during the 2021-2022 school year, all public school units to adopt a policy regarding the use of face coverings by employees and students. The governing body of the public school unit must vote at least once a month on whether the face covering policy should be modified.

BILL ANALYSIS: Part I would allow the parent of a student to elect for their child to not wear face coverings while on public school unit property or while attending early childhood programs located on public school unit property, notwithstanding any other State or local law, rule, or policy.

The public school unit would be required to adopt a process for parents to provide annual notification of this election. The parent would not have to provide a reason for opting out and could not be required to certify the student's health or education status.

Students not wearing face coverings would be required to be treated the same as students wearing face coverings, including with regards to any of the following: classroom assignments, course assignments, non-academic portions of the school day, extracurricular activities, student discipline, and academic grading.

Public school units and the members of the governing board, employees, designees, agents, or volunteers would not be liable for any act or omission in compliance with allowing parental opt-out of face covering requirements, unless the act or omission amounts to gross negligence, willful or wanton conduct, or intentional wrongdoing.

Part II makes conforming changes to other statutes to provide cross-references to the change in Part I.

Part III repeals the requirement that governing boards of public school units adopt and vote monthly on a face covering policy for the 2021-2022 school year.

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EFFECTIVE DATE: The conference committee substitute would become effective when it becomes law.

BACKGROUND: The Centers for Disease Control and Prevention (CDC) issued an Order (86 FR 8025) on January 29, 2021, requiring the wearing of masks by travelers on conveyances, including school buses. The Order can be found [here](#). The conference committee substitute to Senate Bill 173 would not allow for an opt-out to the CDC requirement that students wear masks on school buses.