



SENATE BILL 173: Free the Smiles Act.

2021-2022 General Assembly

Committee:		Date:	March 18, 2022
Introduced by:	Sens. Krawiec, Burgin, Perry	Prepared by:	Kara McCraw Staff Attorney
Analysis of:	Ratified		

OVERVIEW: *SB 173 would have done 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.

SB 173 was ratified by the General Assembly on February 17, 2022, and was vetoed by the Governor on February 24, 2022.

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

Students not wearing face coverings would have been 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 have been 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.

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Part II of the bill would have made conforming changes to other statutes to provide cross-references to the change in Part I of the bill.

Part III of the bill would have repealed the requirement that governing boards of public school units adopt and vote monthly on a face covering policy for the 2021-2022 school year.

EFFECTIVE DATE: This bill was vetoed by the Governor on February 24, 2022, has not been overridden by the General Assembly, and, therefore, has not become law. The bill would have become effective when it became 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](#). This bill would not allow for an opt-out to the CDC requirement that students wear masks on school buses.