

As Introduced

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H. B. No. 112

Representatives Gross, Lear

Cosponsors: Representatives Swearingen, Barhorst, Fischer, Miller, M., King, Click, Hall, T., Creech, Ferguson, Claggett, Miller, K., Mullins, Klopfenstein, Workman, Dean, Teska, Willis, McClain, John, Mathews, T., Pizzulli, Ritter, Lorenz, Johnson, Holmes, Bird, Fowler Arthur

A BILL

To enact section 3792.09 of the Revised Code to 1
prohibit discrimination against an individual 2
for the refusal of certain medical interventions 3
for reasons of conscience, including religious 4
convictions, and to name this act the 5
Conscientious Right to Refuse Act. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3792.09 of the Revised Code be 7
enacted to read as follows: 8

Sec. 3792.09. (A) As used in this section: 9

(1) "Business" means an association, business trust, 10
corporation, estate, joint venture, limited liability company, 11
partnership, sole proprietorship, trust, or other business 12
entity composed of one or more individuals, whether operated for 13
profit or not-for-profit. 14

(2) "Health plan issuer" has the same meaning as in 15

section 3922.01 of the Revised Code. 16

(3) "Individual" means an individual who is eighteen years
of age or older or is an emancipated minor. 17
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(4) "Political subdivision" means a county, township,
municipal corporation, or other body corporate and politic
responsible for governmental activities in a geographic area
smaller than that of the state. "Political subdivision" also
includes a board of health of a city or general health district. 19
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(5) "Private college" has the same meaning as in section
3365.01 of the Revised Code. 24
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(6) "Public official" means any officer, employee, or duly
authorized agent or representative of a state agency or
political subdivision. 26
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(7) "State agency" means any organized agency, board,
body, commission, department, institution, office, or other
entity established by the laws of the state for the exercise of
any function of state government. "State agency" does not
include a court. 29
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(8) "State institution of higher education" has the same
meaning as in section 3345.011 of the Revised Code. 34
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(B) Subject to division (E) of this section, a business,
employer, including an administrator or supervisor, health care
provider, health plan issuer, hospital, institution, nursing
home, political subdivision, private college, public official,
residential care facility, state agency, or state institution of
higher education shall not do any of the following based on an
individual's refusal of any biologic; DNA-based product; drug;
facial covering; gene editing technology; medical device used to
track or store health, financial, or personal information; 36
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<u>pharmaceutical; RNA-based product; or vaccine for reasons of</u>	45
<u>conscience, including religious convictions:</u>	46
<u>(1) Deny employment to the individual or terminate the</u>	47
<u>individual's employment;</u>	48
<u>(2) Deny a service, including medical care or a public</u>	49
<u>service, to the individual;</u>	50
<u>(3) Deny the individual access to commerce;</u>	51
<u>(4) Segregate the individual;</u>	52
<u>(5) Penalize the individual or use financial coercion</u>	53
<u>against the individual;</u>	54
<u>(6) Treat the individual differently than an individual</u>	55
<u>who accepted the facial coverage or medical intervention.</u>	56
<u>(C) In the case of a minor who is not emancipated, the</u>	57
<u>minor shall not be denied access to medical care, including</u>	58
<u>organ transplantation, based on the minor's personal</u>	59
<u>representative declining vaccination for that minor for reasons</u>	60
<u>of conscience, including religious convictions.</u>	61
<u>(D) (1) If an individual described in division (B) of this</u>	62
<u>section believes that a violation of that division has occurred,</u>	63
<u>the individual may do either or both of the following:</u>	64
<u>(a) Petition a court of competent jurisdiction for</u>	65
<u>injunctive relief or a declaratory judgment;</u>	66
<u>(b) Bring a private civil action for money damages in a</u>	67
<u>court of competent jurisdiction against the business, employer,</u>	68
<u>including an administrator or supervisor, health care provider,</u>	69
<u>health plan issuer, hospital, institution, nursing home,</u>	70
<u>political subdivision, private college, public official,</u>	71

residential care facility, state agency, or state institution of 72
higher education. 73

To prevail in a civil action, the individual must prove, 74
by a preponderance of the evidence, that the business, employer, 75
health care provider, health plan issuer, hospital, institution, 76
nursing home, political subdivision, private college, public 77
official, residential care facility, state agency, or state 78
institution of higher education violated division (B) of this 79
section. 80

(2) If a minor's personal representative described in 81
division (C) of this section believes that a violation of that 82
division has occurred, the personal representative may do either 83
or both of the following on the minor's behalf: 84

(a) Petition a court of competent jurisdiction for 85
injunctive relief or a declaratory judgment; 86

(b) Bring a private civil action for money damages in a 87
court of competent jurisdiction against the health care 88
provider, health plan issuer, hospital, or institution that 89
violated division (C) of this section. 90

To prevail in a civil action, the personal representative 91
must prove, by a preponderance of the evidence, that the health 92
care provider, health plan issuer, hospital, or institution 93
violated division (C) of this section. 94

(3) Whenever an individual or personal representative who 95
petitions for injunctive relief or a declaratory judgment 96
prevails in that petition, the court shall award the individual 97
or personal representative court costs and reasonable attorney's 98
fees. 99

Whenever an individual or personal representative who 100

brings a private civil action for money damages prevails in that 101
action, the court shall award the individual or personal 102
representative all of the following: court costs; reasonable 103
attorney's fees; and three times the amount of actual damages or 104
two hundred dollars, whichever is greater. 105

(E) For purposes of division (B) of this section, a facial 106
covering does not include a surgical mask worn during the 107
performance of a surgical procedure. 108

(F) A business, employer, including an administrator or 109
supervisor, health care provider, health plan issuer, hospital, 110
institution, nursing home, political subdivision, private 111
college, public official, residential care facility, state 112
agency, or state institution of higher education that provides a 113
public service is immune from civil liability for any outbreak 114
of any communicable or infectious disease or illness that is 115
believed to be prevented by a vaccine. An entity that provides 116
food services is not immune from civil liability for a food- 117
borne illness. 118

(G) Notwithstanding section 1.51 of the Revised Code, the 119
provisions of this section prevail over any conflicting 120
provisions in a general law, to the extent of the conflict, 121
unless the general law contains a specific exemption from this 122
section. In such a case, the general law prevails, but only to 123
the extent of the exemption. 124

(H) No portion of this section shall prevent the 125
recommendation of, education on, or access to a facial covering 126
or medical intervention specified in division (B) of this 127
section. 128

Section 2. This act shall be known as the Conscientious 129

Right to Refuse Act.

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