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Office

H.B. 248
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Gross

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SUMMARY

- Authorizes an individual to decline a vaccination if a public or private entity requires the individual to be vaccinated.
- Requires the mandating entity to notify the individual that vaccination may be declined and establishes conditions on the manner in which that notice is provided.
- Specifies that a mandatory vaccination can be declined either by submitting a written statement or making a verbal declaration.
- Requires the written statement or verbal declaration to include one of the following reasons for declining vaccination: medical contraindications, natural immunity, or reasons of conscience, including religious convictions.
- Prohibits a public or private entity from taking certain actions against an individual who declines vaccination.
- Names the act the Vaccine Choice and Anti-Discrimination Act.

DETAILED ANALYSIS

Declining vaccination

As introduced, H.B. 248 authorizes an individual to decline a vaccination in the event a person, political subdivision, public official, or state agency (“public or private entity” or “mandating entity”) requires the individual to be vaccinated.¹ The bill applies to all mandated vaccinations.

¹ R.C. 3792.02(B)(1).

Definitions

- **“Person”** includes an individual, corporation, business trust, estate, trust, partnership, and association.
- **“Political subdivision”** means a county, township, municipal corporation, school district, 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.
- **“Public official”** means any officer, employee, or duly authorized representative or agent of a public office.
- **“State agency”** means every organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government. State agency also includes every institution or organization that receives any support from the state.²

Process for declining vaccination

In order to decline a vaccination under the bill, an individual must either (1) submit to the mandating entity a written statement in which the individual declines to be vaccinated or (2) verbally declare to the mandating entity that the individual declines to be vaccinated. With respect to a minor individual, to decline vaccination, the minor’s parent or guardian must submit the written statement or make the verbal declaration.

The bill requires a written statement or verbal declaration to include at least one of the following reasons for declining vaccination:

- Medical contraindications;
- Natural immunity;
- Reasons of conscience, including religious convictions.³

The bill specifies that when declining vaccination, the individual or, in the case of a minor, the minor’s parent or guardian, cannot be required to do anything beyond submitting the written statement or making the verbal declaration.⁴

Duties of mandating entity

The bill requires a public or private entity that mandates vaccination to notify an individual that the individual may decline the vaccination. When notifying, the mandating entity must do all of the following:

² R.C. 3792.02(A).

³ R.C. 3792.02(B)(2) and (3).

⁴ R.C. 3792.02(B)(4).

- Provide the notice in the same manner, communication, frequency, timing, and font in which the entity notified the individual of the vaccination requirement;
- Specify the available exemptions;
- Explain that a vaccination may be declined either by written statement or verbal declaration.⁵

The bill also requires the mandating entity to accept the written statement or verbal declaration in the format it was received.⁶

Prohibited actions

When an individual declines vaccination, the bill prohibits the public or private entity from doing any of the following:

- Discriminating against the individual;
- Denying the individual service or access to the entity;
- Segregating the individual;
- Requiring the individual to wear a facial covering or other vaccination status label;
- Otherwise penalizing the individual financially or socially.

It further prohibits the entity from disclosing or otherwise making public an individual's vaccination exemption status.⁷

School and child care immunizations

The bill states that its provisions, including those governing the manner in which notice of exemptions from mandatory vaccination is provided and the process by which vaccination may be declined, also apply to the state-mandated vaccines for school children, children enrolled in child care, and child care staff.⁸ Note, however, that the bill does not specifically amend the existing statutory law concerning school child and child care immunizations and exemptions.⁹

Special vs. general provisions

The bill specifies that its provisions prevail over any conflicting provisions in a general law, present or future, to the extent of the conflict. But, if any such general law contains a

⁵ R.C. 3792.02(C).

⁶ R.C. 3792.02(B)(2).

⁷ R.C. 3792.02(D).

⁸ R.C. 3792.02(E).

⁹ R.C. 3313.671, 5104.014, 5104.015, 5104.017, 5104.018, and 5104.019, not in the bill.

specific exemption from the bill’s provisions, including a specific reference to those provisions, the general law prevails, but only to the extent of the exemption.¹⁰

HISTORY

| Action | Date |
|------------|----------|
| Introduced | 04-06-21 |

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¹⁰ R.C. 3792.02(F).