As Pending in the House Health Committee

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2021-2022

Representative Gross
Cosponsors: Representatives Loychik, Vitale, Fowler Arthur, Click, Creech, Brinkman, Wiggam, Stoltzfus, Jordan, Dean, Zeltwanger, McClain, Merrin, Edwards, Ferguson

A BILL

To amend section 3345.47, to enact section 3792.02, and to repeal sections 1713.55, 3332.25, 3345.85, and 3701.133 of the Revised Code to prohibit mandatory vaccinations, vaccination status disclosures, and certain other actions regarding vaccinations and to name this act the Vaccine Choice and Anti-Discrimination Act.

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

Section 1. That section 3345.47 be amended and section 3792.02 of the Revised Code be enacted to read as follows:

Sec. 3345.47. (A) No state university shall require a student to live in on-campus student housing, if the student lives within twenty-five miles of the campus.

(B) As used in this section:

(1) "On-campus student housing" has the same meaning as in section 3345.85 of the Revised Code means a dormitory or other student residence that is owned or operated by, or located on
the campus of a state institution of higher education.

(2) "State university" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 3792.02. (A) As used in this section:

(1) "Child day-care center" has the same meaning as in section 5104.01 of the Revised Code.

(2) "Employer" has the same meaning as in section 4113.51 of the Revised Code.

(3) "Health care provider" has the same meaning as in section 3701.74 of the Revised Code.

(4) "Individual" means an adult or minor, state resident or otherwise.

(5) "Insurer" has the same meaning as in section 3902.02 of the Revised Code.

(6) "Institution" has the same meaning as in section 1713.01 of the Revised Code.

(7) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

(8) "Patient" means an individual seeking or receiving care or treatment from a health care provider.

(9) "Person" has the same meaning as in section 1.59 of the Revised Code.

(10) "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, county,
(11) "Public agency" has the same meaning as in section 102.01 of the Revised Code.

(12) "Public official or employee" has the same meaning as in section 102.01 of the Revised Code.

(13) "Public space" means any of the following:

(a) Places of public accommodation;

(b) Any building or space, whether indoors or outdoors, that is owned, leased, operated, occupied, or otherwise used by a public body;

(c) Any other building or space, whether indoors or outdoors, that is generally open to the public.

(14) "School" means a publicly or privately funded school, including an elementary or secondary school for which the state board of education prescribes minimum standards pursuant to section 3301.07 of the Revised Code. "School" also includes a board of education of a city, local, or exempted village school district or governing authority of a school.

(15) "State agency" has the same meaning as in section 1.60 of the Revised Code.

(16) "Vaccine," "vaccination," and "immunization" means any product manufactured for the purpose of creating acquired immunity to an infectious disease or diseases or the process of administering such a product.

(17) "Vaccine status" means whether or not an individual has received a specific vaccination or series of vaccinations.

(B) It is the policy of this state that individuals have a
right to direct their own health care decisions, free from coercion or penalty, and with informed consent, for themselves, their children, their family, and anyone for whom they stand in loco parentis.

(1) No person, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer shall mandate, require, or otherwise request an individual to receive a vaccine, except as provided in sections 3313.671 and 5104.014 of the Revised Code. In the case of those exceptions, all of the following apply:

(a) A school that notifies a pupil or the pupil's parent or guardian of the immunization requirements pursuant to section 3313.671 of the Revised Code shall notify the pupil and the pupil's parents or guardians of the exemptions from immunization described in that section in the same timing and manner, including text size and font, as it provides notice of the requirements.

(b) A school that requires immunizations pursuant to section 3313.671 of the Revised Code shall honor the exemptions from the immunization requirements described in that section.

(c) A child day-care center that notifies a child or the child's parent or guardian of the immunization requirements pursuant to section 5104.014 of the Revised Code shall notify the child and the child's parents or guardians of the exemptions from immunization described in that section in the same timing and manner, including text size and font, as it provides notice of the requirements.
(d) A child day-care center that requires immunizations pursuant to section 5104.014 of the Revised Code shall honor the exemptions from the immunization requirements described in that section.

(C) It is the policy of this state that individuals have a right to expect that their personal privacy rights remain protected, specifically private health information.

(l) Except as provided in division (C)(2) of this section, no person, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer shall do any of the following:

(a) Mandate, require, or otherwise request an individual to disclose the individual's vaccine status;

(b) Mandate, require, or otherwise request participation in a vaccine passport system, vaccine registry, or other mechanism that is designed for the purpose of tracking an individual's vaccine status;

(c) Disclose an individual's vaccination status.

(2) (a) Division (C)(1) of this section does not apply to the extent described in sections 3313.671 and 5104.014 of the Revised Code. In such case, a student's or child's vaccine status shall be considered and treated as personally identifiable information pursuant to section 3319.321 of the Revised Code.

(b) Division (C)(1) of this section does not apply to a health care provider or insurer as it pertains to patient care, treatment, or billing. In such case, an individual's vaccine status shall be considered and treated as protected health
information pursuant to Chapter 3798. of the Revised Code.

(3) No person, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer shall make public an individual's vaccine status.

(D) It is the policy of this state that individuals have a right to expect that their personal health choices shall not result in discriminatory treatment.

(1) No person, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer shall do any of the following:

(a) Deny service or access to, segregate, require a vaccine status label for, require disease or immunity testing of, penalize as a result of, or otherwise discriminate against an individual based on their refusal to receive a specific vaccination or series of vaccinations, subscribe to a vaccine or immunity passport or tracking system, or provide proof of vaccination for, immunity to, or testing of a specific contagious or infectious disease or diseases;

(b) Provide any disposition, service, financial aid, or benefit to an individual that is different from, or is provided in a different manner than, that provided to other individuals based on the individual's refusal to receive a specific vaccination or series of vaccinations, subscribe to a vaccine or immunity passport or tracking system, or provide proof of vaccination for, immunity to, or testing of a specific
contagious or infectious disease or diseases;

(c) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit provided to other individuals based on the individual's refusal to receive a specific vaccination or series of vaccinations, subscribe to a vaccine or immunity passport or tracking system, or provide proof of vaccination for, immunity to, or testing of a specific contagious or infectious disease or diseases;

(d) Treat an individual differently from others in determining whether that individual satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition that individuals are required to meet in order to be provided any disposition, service, financial aid, or benefit available to other members of the general public;

(e) Deny an individual an opportunity to participate in a program through the provision of service or otherwise afford that individual an opportunity to do so that is different from that afforded to other members of the general public;

(f) Create, impose, or allow to be imposed any device or method of identification that acts as, or might be considered to be, a vaccine passport that would be required of any citizen seeking to travel, to enter any public space or private property, or to do any business within this state.

(E) It is the policy of this state that the success of our state relies largely on the success of the businesses within the state, and therefore the intent to ensure protection of businesses who honor individual's rights to health choice and privacy.
No person, public official or employee, public agency, state agency, political subdivision, or insurer shall do any of the following:

(1) Deny service to, penalize as a result of, or otherwise discriminate against a business, corporation, business trust, estate, trust, partnership, or association based on the entity's compliance with the intent of this section;

(2) Provide any disposition, service, financial aid, or benefit to a business, corporation, business trust, estate, trust, partnership, or association that is different from, or is provided in a different manner than that provided to other businesses, corporations, business trusts, estates, trusts, partnerships, or associations based on the entity's compliance with the intent of this section;

(3) Restrict a business, corporation, business trust, estate, trust, partnership, or association in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit provided to other businesses, corporations, business trusts, estates, trusts, partnerships, or associations based on the entity's compliance with the intent of this section.

(F) It is the policy of this state that the health choice and privacy of individuals are paramount and shall remain so under all circumstances, even in the presence of emergencies.

(1) No public official or employee, public agency, state agency, or political subdivision shall issue any order or proclamation or take other action that violates any provision of this section, under the pretense of an emergency, including a state of emergency as defined in section 107.42 of the Revised
(2) No public official or employee, public agency, state agency, or political subdivision shall issue any order or proclamation or take other action that encourages any person, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer to violate any provision of this section.

(3) No public official or employee, public agency, state agency, or political subdivision shall issue any order or proclamation or take other action that penalizes any person, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer for refusing to violate any provision of this section.

(G) If an individual believes that a person, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer has violated any provision of this section, the individual may pursue any or all of the following:

(1) Seek relief under Chapter 4112. of the Revised Code;

(2) Seek relief through a complaint submitted to the attorney general. If the attorney general, by the attorney general's own inquiries or as a result of complaints, has reasonable cause to believe that any provision of this section has been violated, the attorney general may bring either of the
following:

(a) An action to obtain a declaratory judgment that the
act or practice violates this section;

(b) An action, with notice as required by Civil Rule 65,
to obtain a temporary restraining order, preliminary injunction,
or permanent injunction to restrain the act or practice.

If the attorney general shows by a preponderance of the
evidence that any provision of this section has been violated,
the court may issue a temporary restraining order, preliminary
injunction, or permanent injunction to restrain and prevent the
act or practice. On motion of the attorney general, or on its
own motion, the court may also impose any civil penalty that the
court considers appropriate.

(3) Bring a civil action against the person, public
official or employee, public agency, state agency, political
subdivision, school, child day-care center, nursing home,
residential care facility, health care provider, insurer,
institution, or employer in a court of competent jurisdiction.
If the plaintiff prevails, the court shall award the plaintiff
financial compensation for court costs and attorney's fees, as
well as any civil penalty that the court considers appropriate.

(H) Notwithstanding section 1.51 of the Revised Code, the
provisions of this section 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 specific
exemption from this section, including a specific reference to
this section, such general law prevails, but only to the extent
of the exemption.

Section 2. That existing section 3345.47 of the Revised
Code is hereby repealed.

Section 3. That sections 1713.55, 3332.25, 3345.85, and 3701.133 of the Revised Code are hereby repealed.

Section 4. This act shall be known as the Vaccine Choice and Anti-Discrimination Act.