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RECEIVED
MAR 03 2022
Ohio Attorney General
Constitutional Offices Section

March 3, 2022

Hon. David Yost
Ohio Attorney General
30 E. Broad St.
Columbus, OH 43215

Re: "Vaccine Choice and Antidiscrimination" Summary Petition

Dear Attorney General Yost:

Pursuant to ORC 3519.01(A), a petition to approve a summary of a statewide initiative to enact a state law, titled Vaccine Choice and Antidiscrimination. The petition contains approximately 1832 signatures of electors on 193 part-petitions and the summary and full text of the proposed law. A list of the number of part-petitions and signatures separated by counties is attached to the correspondence.

Please contact me if you have any questions. Thank you.

Very truly yours,



Diana D. Smith

INITIATIVE PETITION

To the Attorney General of Ohio: Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed law and a summary of the same.

TITLE

Vaccine Choice and Anti-Discrimination Act

SUMMARY

The Act would prohibit mandatory vaccinations, vaccination status disclosures, and certain other actions regarding vaccinations. The Act also contains definitions, as it relates specifically to proposed Sec. 3792.02. The below listed terms are defined and found within the proposal of law:

- “Child day-care center” has the same meaning as in section 5104.01 of the Revised Code.
- “Employer” has the same meaning as in section 4113.51 of the Revised Code.
- “Health care provider” has the same meaning as in section 3701.74 of the Revised Code.
- “Individual” means an adult or minor, state resident or otherwise.
- “Insurer” has the same meaning as in section 3902.02 of the Revised Code.
- “Institution” has the same meaning as in section 1713.01 of the Revised Code.
- “Nursing home” and “residential care facility” have the same meanings as in section 3721.01 of the Revised Code.
- “Patient” means an individual seeking or receiving care or treatment from a health care provider.
- “Person” has the same meaning as in section 1.59 of the Revised Code.
- “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, or general health district.
- “Public agency” has the same meaning as in section 102.01 of the Revised Code.
- “Public official or employee” has the same meaning as in section 102.01 of the Revised Code.
- “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.
- “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.
- “State agency” has the same meaning as in section 1.60 of the Revised Code.
- “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.
- “Vaccine status” means whether or not an individual has received a specific vaccination or series of vaccinations.
- “Business” means any corporation, association, partnership, limited liability company, sole proprietorship, joint venture, or similar entity composed of one or more individuals, whether or not the entity is operated for profit.
- “Passport system” means any paper document or digital application that is available on a telecommunications device.
- “Registry” means any list whether it be in paper or digital format that is routinely maintained by a 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.
- “Personally identifiable information” means any data that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.
- “Protected health information” has the same meaning as in section 3798.01 of the Revised Code.

The Act also declares that it is the policy of Ohio 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.

The Act also prohibits any of the following from mandating, requiring, or otherwise requesting an individual to receive a vaccine: 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; and Employer. However, the aforementioned prohibitions in the proposal of law *are not* applicable to those vaccinations required under sections 3313.671 and 5104.014 of the Revised Code, which includes required immunizations for such diseases as mumps, poliomyelitis, diphtheria, pertussis, tetanus, rubeola, and rubella.

Under the Act, a school or day-care center that notifies a child's parent or guardian about the required immunizations, pursuant to sections 3313.671 and 5104.014 of the Revised Code, must also notify the parent or guardian of the available exemptions. This is to be done in the same timing and manner, including text size and font, as the school or center notifies families of the immunization requirements.

The Act declares that it is the policy of Ohio that individuals have a right to expect that their personal privacy rights remain protected, specifically their private health information.

The Act prohibits all of the following from: (1) mandating, requiring, or otherwise requesting an individual to disclose the individual's vaccine status or participate in a vaccine passport system, vaccine registry, or other mechanism designed for the purpose of tracking an individual's vaccine status, (2) disclosing an individual's vaccination status, and (3) making public an individual's vaccine status: 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; and Employer.

The Act includes language stating that its prohibition on disclosures does not apply to the extent described in the law requiring a child's parent or guardian to provide proof of immunization to the child's school or child care provider; however, it does specify that, in case of disclosure, a student's or child's vaccine status is to be considered and treated as personally identifiable information.

The Act also includes language stating that its prohibition on disclosures does not apply to a health care provider or insurer as it pertains to patient care, treatment, or billing. In case of a disclosure for purposes of care, treatment, or billing, an individual's vaccine status must be considered and treated as protected health information.

The Act declares that it is the policy of Ohio that individuals have a right to expect that their personal health choices will not result in discriminatory treatment.

In the case of an individual who refuses to (1) receive a specific vaccination or series of vaccinations, (2) subscribe to a vaccine or immunity passport or tracking service, or (3) provide proof of vaccination for, immunity to, or testing of a specific contagious or infectious disease, the Act prohibits an individual, business, 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 from doing any of the following:

- Denying service or access to, segregating, requiring a vaccine status label for, requiring disease or immunity testing of, penalizing as a result of, or otherwise discriminating against the individual;
- Providing any disposition, service, financial aid, or benefit to the individual that is different from or provided in a different manner than that provided to another individual;
- Restricting the 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;
- Treating the 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;

- Denying the 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;

- Creating, imposing, or allowing 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, enter any public space or private property, or do any business in Ohio.

The Act declares that it is the policy of Ohio that the success of the state relies largely on the success of its private businesses and that Ohio intends to ensure protection of businesses honoring individual's rights to health choice and privacy.

In the case of a business that complies with the Act's foregoing policy statement and honors the rights of individuals to health choice and privacy, the Act prohibits an individual, business, public official or employee, public agency, state agency, political subdivision, or insurer from doing any of the following:

- Denying service to, penalizing, or otherwise discriminating against the business;
- Providing any disposition, service, financial aid, or benefit to the business that is different from or is provided in a different manner than that provided to another business;
- Restricting the business 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.

The Act declares that it is the policy of Ohio that the health choice and privacy of individuals are paramount and must remain so under all circumstances, even in the presence of emergencies.

The Act prohibits a public official or employee, public agency, state agency, or political subdivision from doing any of the following:

- Issuing any order or proclamation or taking other action that violates the Act's provisions under the pretense of an emergency;
- Issuing any order or proclamation or taking other action that encourages any individual, business, 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 of the Act's provisions;
- Issuing any order or proclamation or taking other action that penalizes any individual, business, 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 of the Act's provisions.

The Act authorizes an individual who believes that any of the Act's provisions have been violated to pursue any of the following:

- Relief under Ohio's anti-discrimination statutes;
- A civil action.

In the case of a civil action brought by an individual plaintiff, if the plaintiff prevails, the Act requires the court to award the plaintiff financial compensation for court costs and attorney's fees as well as any civil penalty the court considers appropriate.

CERTIFICATION TO THE ATTORNEY GENERAL

This certification of the Attorney General, pursuant to Ohio Revised Code § 3519.01(A), will be inserted when it is provided. This initial petition must be submitted with at least one thousand (1,000) valid signatures of Ohio Electors before the Attorney General will issue that certification.

COMMITTEE TO REPRESENT PETITIONERS

Diana D. Smith, 6785 Smith Road, Bradford, Ohio 45308

Leah Lines, 6837 Requarth Road, Greenville, Ohio 45331

Stephanie Stock, % Ohio Advocates for Medical Freedom, P.O. Box 1208, Norton, Ohio 44203

Devon Horsman, 1697 North Laddle Court, Beavercreek, Ohio 45432

FULL TEXT OF LAW

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OHIO THAT THE FOLLOWING SECTION BE ADDED TO TITLE XXXVII 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, or general health district.

(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.

(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.

(18) "Business" means any corporation, association, partnership, limited liability company, sole proprietorship, joint venture, or similar entity composed of one or more individuals, whether or not the entity is operated for profit.

(19) "Passport system" means any paper document or digital application that is available on a telecommunications device.

(20) "Registry" means any list whether it be in paper or digital format that is routinely maintained by a 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.

(21) "Personally identifiable information" means any data that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

(22) "Protected health information" has the same meaning as in section 3798.01 of the Revised Code.

(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.

(1) 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 Code.

(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) 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.