

## 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 and/or Gene Therapy Choice and Anti-Discrimination

### SUMMARY

Enact Section 3792.02 of the Ohio Revised Code to ensure Ohioans maintain vaccine choice and privacy.

More specifically:

1. **Protect Ohioans' Vaccine Choice** - Prohibit 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 from requiring any vaccine or gene therapy.
2. **Protect Ohioans' Vaccine Choice Privacy** - Prohibit 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 from requesting any vaccination or gene therapy status. Also prohibit the disclosure of a person's vaccine or gene therapy status.
3. **Protect Ohioans from Vaccine "Passports"/Registries/etc** - Prohibit 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 from requesting any vaccination or gene therapy status.
4. **Provide Transparency & Reinforce that Schools Must Honor Vaccine Choice & Privacy** – While permitting the existing school vaccine mandates and exemptions already within Ohio code to remain law, public and private schools or childcare providers would be required to notify parents of existing vaccine mandates, and they must notify parents of applicable law that provides exemptions in the same manner they notify of the mandates. Additionally, this law would reinforce that schools and childcare providers must honor exemptions, and that student vaccine information must be treated as Personally Identifiable Information.
5. **Protect Ohioans from Vaccine Choice & Privacy Discrimination** - Prohibit 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 from discriminating against someone for not receiving a vaccine or gene therapy, participating in vaccine or gene therapy status tracking, not providing proof of vaccination / gene therapy / immunity / testing.
6. **Protect Ohio Businesses Honoring Vaccine Choice & Privacy** - Prohibit a person, public official or employee, public agency, state agency, political subdivision from discriminating against a business who follows these new laws.

7. **Provide Legal Recourse for Vaccine Choice & Privacy Violations** - If someone violates any provision of the new code, there can be legal repercussions, including a) Civil Rights Complaint, and b) civil litigation.

### **CERTIFICATION OF 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 THE PETITIONERS**

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### **FULL TEXT OF LAW**

**Be it enacted by the people of the State of Ohio that the following Chapter Section be added the Ohio Revised Code.**

#### **Section 3792.02 Vaccine and/or Gene Therapy Choice and Anti-Discrimination**

(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) "Gene therapy" means the genetic modification of cells.
- (4) "Gene therapy status" means whether or not an individual has received a specific gene therapy or series of therapies.
- (5) "Health care provider" has the same meaning as in section 3701.74 of the Revised Code.
- (6) "Individual" means an adult or minor, state resident or otherwise.
- (7) "Insurer" has the same meaning as in section 3902.02 of the Revised Code.
- (8) "Institution" has the same meaning as in section 1713.01 of the Revised Code.

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

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

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

(12) "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.

(13) "Public agency" has the same meaning as in section 102.01 of the Revised Code.

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

(15) "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.

(16) "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.

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

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

(19) "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 and/or gene therapy, 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 and/or gene therapy status;

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

(c) Disclose an individual's vaccination and/or gene therapy 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 and/or gene therapy 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 and/or gene therapy 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 and/or gene therapy 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 and/or gene therapy or series of vaccinations and/or gene therapies, subscribe to a vaccine and/or gene therapy or immunity passport or tracking system, or provide proof of vaccination and/or gene therapy 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 and/or gene therapy or series of vaccinations and/or gene therapies, subscribe to a vaccine and/or gene therapy or immunity passport or tracking system, or provide proof of vaccination and/or gene therapy 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 and/or gene therapy or series of vaccinations and/or gene therapies, subscribe to a vaccine and/or gene therapy or immunity passport or tracking system, or provide proof of vaccination and/or gene therapy 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 and/or gene therapy 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 either or both of the following:

(1) Seek relief under Ohio Civil Rights law, 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.

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