

JUNE 2022

LEGISLATIVE REMEDIES TO PREVENT VACCINE MANDATES – FLORIDA

Weighing heavily on the minds of so many is where they will be effectively forced to take a vaccine to be able to reasonably function in society. We have not only witnessed the abuse of emergency powers by the Federal government, certain Governors all the way into our local health officers and county representatives; we have also all experienced draconian societal restrictions and mandates base on tests with questionable reliability and lacking adequate scientific support. Florida has been protected by Governor DeSantis. However, the slow intention move toward the social credit system is coming, mandates are not going to end, and we must establish firm laws that will permanently ban any discrimination of an individual's vaccine or immunity status. Rather than passively waiting, citizens and their legislators are taking preemptive action requesting laws be set in place to prevent forced vaccinations or societal isolation for not vaccinating.

The following notes can be submitted to the legislative drafting services Services to prepare a bill to be filed and passed in Florida. "Italicized" text contains generalized suggested changes to existing state laws, and the "regular" text is model language.

The general purposes of the Florida Civil Rights Act of 1992 was to secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state. In 2021, now is the time to address Health Status Discrimination and protect all Floridians right under The Florida Constitution, Article 1, Declaration of Rights.

We need to amend section 760.01 to include HEALTH STATUS (VACCINATION OR IMMUNITY STATUS) including remedies under 760.021, 760.07, 760.08, 760.10, 760.11

Employment Protection: Prevent Vaccine Mandates by Employers, Amend State Employment or Labor Code

Employee Protection, Right to Object

An employer commits an unlawful employment practice if the employer fails or refuses to hire, discharges, penalizes or otherwise discriminates against an individual with respect to compensation or terms, conditions, or privileges of employment:

- a) On the basis of the individual's vaccination history, or vaccination status
- b) Because of the refusal of the individual to receive a vaccine or provide proof of immunity

Medical Provider Protection, Right to Object

physician, nurse, staff member, or employee of a hospital or other health care facility who objects to receiving a vaccine shall not be required to be vaccinated as a condition of employment.

A hospital or health care facility shall not discriminate against any employee including a physician, nurse, staff member, or an applicant who refuses to receive a vaccine.

A licensing authority may not deny an application for an occupational license, suspend, revoke, or refuse to renew an occupational license, or take any other disciplinary action against a license holder based on the vaccination status or history of the license applicant or license holder.

Remedies

A person whose rights under this chapter are violated may sue an employer, hospital, or health care facility in district court in the county where the hospital, facility, or institution is located for:

an injunction against any further violation;

appropriate affirmative relief, including, but not limited to, admission or reinstatement of employment with back pay plus 10 percent interest; and (c) any other relief necessary to ensure compliance with this chapter.

Insurance Protection: Prevent Vaccine Mandates by Health and Life Insurance Plans, Amend State Insurance Code

Use of Vaccination Status by Insurers and Those Who Rate Insurers Prohibited

A group health benefit plan or life insurance plan issuer may not use vaccination status information to reject, deny, limit, cancel, refuse to renew, increase the premiums for, limit the amount, extent, or kind of coverage available to the individual, or otherwise adversely affect eligibility for, or deny a claim or any portion thereof under the group health benefit plan.

A group health benefit plan issuer may not use the vaccination status of the patients of a health care provider as a qualification or requirement for contracting with the provider or as a basis for terminating the contract with the provider.

It is prohibited to utilize the vaccination status of individuals covered by a group health plan as a factor in the rating of a group health benefit plan that provides coverage in this state.

It is prohibited to utilize the vaccination status of individuals covered by a group health plan as a factor in terms of providing financial incentives or financial or other penalties on a participating provider.

Cease and Desist Order, Sanctions, or Administrative Penalty

Utilize existing sanctions or administrative penalties for violations already codified in state law for other violations.

Children and Students: Prevent Vaccine Mandates by the State, Public and Private Schools, and Child Care Facilities, Amend State Education and Child Care Code

Add a prohibition of vaccine mandates for children by executive order or agency rule.

Amend existing state vaccine exemption laws for school and childcare to add conscientious and religious exemptions where missing and remove any existing exclusions of the exemptions during a time of emergency or epidemic declared by the governor, health commissioner, or other state or local health officers.

or

Remove childhood vaccine mandates statewide, for schools, and for childcare.

No Vaccine Mandates by Emergency Powers or Agency Rule, Amend Government Code

Add a prohibition of a vaccine mandate by executive order of the governor, health commissioner, board of health, or any other authority.

Prohibit a vaccine mandate by agency rule.

Prohibit any discrimination, civil or criminal penalties for refusing a vaccine.

Prohibit Discrimination and Right of Access Restrictions Based on Vaccine Status or Proof of Immunity, Amend State Civil Rights Statute (and/or Code)

Discrimination Prohibited

No person shall be discriminated against because of their vaccination or immunity status by any private or public accommodation by:

providing any disposition, service, financial aid, or benefit to an individual which is different, or is provided in a different manner, from that provided to other members of the general public;

subjecting any individual to segregation or separate treatment in any matter related to that individual's receipt of any disposition, service, financial aid, or benefit provided to other members of the general public; restricting 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 members of the general public;

treating an individual differently from others in determining whether that individual satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any disposition, service, financial aid, function, or benefit available to other members of the general public; and

denying an individual an opportunity to participate in a program through the provision of service or otherwise afford that individual an opportunity to do so which is different from that afforded to other members of the general public.

Infringement of Health Rights. No governmental or other public or private entity or person may infringe on the fundamental rights of the individual to make their own private healthcare decisions, and to be free to accept or refuse any health or medical intervention, testing, treatment or vaccine by requiring another to vaccinate, to disclose vaccination status, or produce an immunity or vaccine passport.

It is unlawful discriminatory practice for a person or governmental entity to:

- a. [Services] refuse, withhold from, or deny to a person any local or state services, goods, facilities, advantages, privileges, access, transportation or freedom of movement, licensing, employment, educational opportunities, health care access based on the person's vaccination status or immunity status
- b. [Incentives or Disincentives] provide or disallow incentives such as coupons, free goods or services, lotteries and games of chance, or to impose a monetary fine or tax, or any other socioeconomic disincentive; based on the person's vaccination status or immunity status
- c. [Employment] refuse to hire or employ a citizen, bar or discharge a citizen from employment, impose a surcharge or pay cut, discriminate against a citizen in compensation or in a term, condition, or privileges of employment based on the person's vaccination status or whether the person has an immunity

d. [Segregation and privacy rights] exclude, limit, segregate, refuse to serve, treat differently; or require testing, PPE, facial coverings or other vaccination status label for, require additional testing, or otherwise discriminate against a person based on the citizen's vaccination status or immunity status

Prohibiting the Connection of Vaccination or Immunity Status to a State Issued Driver's License or State Identification, Amend State Transportation Code

Any business or any government entity using a state issued identification or a state driver's license for identification purposes, driving, or travelling privileges shall not:
connect vaccination status or proof of immunity to driver's license or state identification records;
require a vaccination or proof of immunity; or
discriminate, deny services or access, or otherwise penalize anyone for not receiving a vaccination or providing proof of immunity.

Prohibit Forced Inclusion or Assumed Consent Vaccine Tracking, Amend Health Code

*Amend state vaccine tracking system legislation to require:
written opt-in informed consent for participation in a vaccine tracking system;
written opt-in informed consent to vaccine providers and health plans in order to share vaccination status or vaccination refusal to a vaccine tracking system;
and a provision for an individual or a parent or guardian in the case of a minor child to remove previously granted consent which would trigger the deletion of all vaccination records from the registry and other government, insurance and agency files.*

Health Care: Prevent Vaccine Mandates by Health Care Providers, Health Care Facilities, and Long-Term Care and Assisted Living Facilities, Amend State Medical Practice Act

Discrimination by a Health Care Provider or Health Care Facility Based on Vaccination Status Prohibited

A health care provider or health care facility shall not refuse to provide any health care services to a patient because a patient has or has not received a vaccination.

A health care facility providing clinical experience to satisfy a student's degree requirements shall not discriminate against a student or prohibit admission, enrollment, or employment as a student, intern, or resident because of the student's vaccination status.

A health care provider or health care facility that violates this section is not eligible to receive money from the state for services provided to patients.

Discrimination by a Long-Term Care and Assisted Living Facilities Based on Vaccination Status Prohibited

A long-term care or assisted living facility shall not refuse to provide services to a resident because a patient has or has not received a vaccine.

A long-term care or assisted living facility that violates this section is not eligible to receive money from the state for services provided to patients.

Cease and Desist Order, Sanctions, or Administrative Penalty

Utilize existing sanctions or administrative penalties for violations already codified in state law for other violations.

Prevailing Clause Should Be Added to Each Section of Each Bill

The provisions of this section shall 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 shall prevail, but only to the extent of the exemption.