

Introduced by

Representatives B. Koppelman, Hoverson, Kading, K. Koppelman, Rohr, Satrom

Senators Dever, Heitkamp, Kannianen, Myrdal

1 A BILL for an Act to provide for limits on access to vaccination status and records; to create and  
2 enact a new section to chapter 32-03 and a new section to chapter 34-01 of the North Dakota  
3 Century Code, relating to civil immunity for communicable diseases and mandatory  
4 communicable disease immunizations; to provide a penalty; to provide for application; and to  
5 declare an emergency.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.**

8 **Vaccination status or records.**

- 9 1. A person may not inquire about an individual's vaccination status or request access to  
10 an individual's vaccination records.
- 11 2. This section does not apply to a health care facility, health care provider, or to an entity  
12 required to comply with section 23-07-17.1. For purposes of this section, "health care  
13 facility" means any facility in which health care services are provided and includes a  
14 hospital, special care unit, skilled nursing facility, intermediate care facility, basic care  
15 facility, assisted living facility, ambulatory surgical center, freestanding emergency  
16 department, rural primary care hospital, critical access hospital, inpatient hospice  
17 facility, including a clinic not located on a hospital's primary campus, health  
18 maintenance organization, home health agency, any field hospital, modular  
19 field-treatment facility, and a diagnostic, examination, treatment, imaging, or  
20 rehabilitation center.

21 **SECTION 2.** A new section to chapter 32-03 of the North Dakota Century Code is created  
22 and enacted as follows:

23 **Immunity for communicable disease - Exceptions.**

- 24 1. As used in this section:

- 1           a. "Communicable disease" means an illness caused by a virus, bacteria, fungi, or  
2                     parasite which is spread through contact with a contaminated surface, bodily  
3                     fluid, blood product, insect bite, or skin contact, or through the air.
- 4           b. "Employee" means an individual who performs a service for wages or other  
5                     remuneration under a contract of hire, written or oral, express or implied. The  
6                     term includes an independent contractor.
- 7           2. Subject to subsection 3, a person is immune from civil liability for damage, loss, or  
8                     injury that results from an individual contracting, being exposed to, or potentially being  
9                     exposed to a communicable disease.
- 10          3. Immunity under subsection 2 does not apply to damage, loss, or injury caused by:
- 11               a. A person's willful misconduct or infliction of harm; or
- 12               b. An immunization received by an employee or a prospective employee under  
13                     section 3 of this Act.

14           **SECTION 3.** A new section to chapter 34-01 of the North Dakota Century Code is created  
15 and enacted as follows:

16           **Mandatory immunization prohibited - Penalty for violation - Exemption.**

- 17          1. As used in this section:
- 18               a. "Communicable disease" means an illness caused by a virus, bacteria, fungi, or  
19                     parasite which is spread through contact with a contaminated surface, bodily  
20                     fluid, blood product, insect bite, or skin contact, or through the air.
- 21               b. "Health care facility" means any facility in which health care services are provided  
22                     and includes a hospital, special care unit, skilled nursing facility, intermediate  
23                     care facility, basic care facility, assisted living facility, ambulatory surgical center,  
24                     freestanding emergency department, rural primary care hospital, critical access  
25                     hospital, inpatient hospice facility, including a clinic not located on a hospital's  
26                     primary campus, health maintenance organization, home health agency, any field  
27                     hospital, modular field-treatment facility, and a diagnostic, examination,  
28                     treatment, imaging, or rehabilitation center.
- 29          2. Except as provided in subsection 3, an employer may not require an employee or a  
30                     prospective employee to receive an immunization for the prevention of a

- 1           communicable disease as a condition of retaining or obtaining employment. An  
2           employer that violates this section is guilty of an infraction.
- 3        3. Subject to subsection 4, a health care facility may require an employee or a  
4           prospective employee receive an immunization for the prevention of a communicable  
5           disease as a condition of retaining or obtaining employment if:
- 6           a.   The required immunization is listed in the health care facility's written  
7           employment manual or policy;
- 8           b.   The written employment manual or policy listing the required immunization is  
9           reviewed, updated, published, and issued to all employees on an annual basis;  
10          and
- 11          c.   The employee or prospective employee does not object to the immunization  
12          because of the employee's health or the employee's religious beliefs.
- 13        4. A health care facility may not require an employee or a prospective employee receive  
14           an immunization for the prevention of a communicable disease as a condition of  
15           retaining or obtaining employment if the immunization went through an expedited  
16           development and review process before being approved for distribution and use.
- 17        5. A health care facility may provide reasonable modifications to workplace policies,  
18           practices, procedures, or duties to an employee who objects to a required  
19           immunization as provided under subsection 3.

20        **SECTION 4. APPLICATION.** Section 2 of this Act applies to all civil actions filed after  
21 January 1, 2020, and applies to claims by an employee or former employee who knew or  
22 reasonably should have known about the contraction, exposure, or potential exposure to a  
23 communicable disease before the effective date of this Act.

24        **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.