

SENATE, No. 902

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 14, 2020

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Clarifies statutory exemptions from mandatory immunization requirements for child care center and school attendance.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/15/2021)

1 AN ACT concerning exemptions from mandatory immunization
2 requirements and amending various parts of the statutory law.

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 6 of P.L.1974, c.150 (C.26:1A-9.1) is amended to
8 read as follows:

9 6. a. Provisions in the State Sanitary Code in implementation
10 of **[this act]** P.L.1947, c.177 (C.26:1A-1 et seq.), or provisions
11 otherwise set forth in statute or regulation, which require the
12 immunization of children in a public or private licensed child care
13 center, or students in a public or private preschool program,
14 elementary or secondary school, or institution of higher education,
15 shall provide for an exemption [for pupils] from such mandatory
16 immunization [if the parent or guardian of the pupil objects thereto
17 in a written statement signed by the parent or guardian upon the
18 ground that the proposed immunization interferes with the free
19 exercise of the pupil's religious rights. This exemption may be
20 suspended by the State Commissioner of Health during the
21 existence of an emergency as determined by the State
22 Commissioner of Health] based upon:

23 (1) a statement submitted, using a standard form as shall be
24 prescribed by the Commissioner of Health, to the public or private
25 child care center, preschool program, elementary or secondary
26 school, or institution of higher education, as applicable, by a
27 licensed physician, doctor of osteopathy, or advanced practice nurse
28 that includes: (a) the professional's full name and address, and the
29 national provider identifier of the professional or the professional's
30 collaborating physician; and (b) a statement that the vaccine is
31 medically contraindicated for a specific period of time and the
32 reasons for the medical contraindication, which shall be valid
33 medical reasons that are consistent with guidelines issued by the
34 Advisory Committee on Immunization Practices in the federal
35 Centers for Disease Prevention. A medical exemption submitted
36 pursuant to this paragraph may be reviewed and subject to approval
37 by the physician employed by or consulting for the local or county
38 board of health. A medical exemption approved pursuant to this
39 paragraph shall exempt the child or student, as applicable, from the
40 vaccination for the stated period of time. Subject to the provisions
41 of subsection i. of section 4 of P.L.2004, c.138 (C.26:4-134), the
42 professional issuing the statement shall additionally enter the
43 statement into the child's or student's record in the New Jersey
44 Immunization Information System established pursuant to the
45 P.L.2004, c.138 (C.26:4-131 et seq.); or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) documentation establishing that the Department of Health
2 has approved an exemption for the child or student on the grounds
3 that a sibling of the child or student experienced a vaccine injury.
4 A request for approval of a sibling vaccine injury exemption
5 pursuant to this paragraph shall be submitted to the Department of
6 Health by the child or student, or by the child's or student's parent
7 or guardian if the child or student is a minor, on forms and in
8 manner as shall be prescribed by the Commissioner of Health by
9 regulation, and shall include documentation of a final determination
10 of vaccine injury issued through the Vaccine Injury Compensation
11 Program administered by the Health Resources and Services
12 Administration in the United States Department of Health and
13 Human Services or a final judgment issued by a court of competent
14 jurisdiction that includes a finding of vaccine injury.
15 Documentation of the department's approval of a sibling vaccine
16 injury exemption pursuant to this paragraph shall be submitted to
17 the public or private childcare center, elementary or secondary
18 school, or institution of higher education, as applicable, by the child
19 or student, or by the child's or student's parent or guardian if the
20 child or student is a minor. Subject to the provisions of subsection
21 i. of section 4 of P.L.2004, c.138 (C.26:4-134), the Department of
22 Health shall additionally enter the statement into the child's or
23 student's record in the New Jersey Immunization Information
24 System established pursuant to the P.L.2004, c.138 (C.26:4-131 et
25 seq.).

26 b. County and local boards of health shall have the authority to
27 audit exemptions approved pursuant to subsection a. of this section.

28 c. Except as provided in subsection d. of this section, a public
29 or private child care center, preschool program, elementary or
30 secondary school, or institution of higher education shall not
31 exempt a child or student, as applicable, from a mandatory
32 immunization unless the child or student, or the child's or student's
33 parent or guardian if the child or student is a minor, complies with
34 all of the applicable requirements set forth in subsection a. of this
35 section.

36 d. A nonpublic child care center, preschool program,
37 elementary or secondary school, or institution of higher education
38 may adopt a policy authorizing the admission of children or
39 students, as applicable, who are not in full compliance with
40 mandatory immunization requirements and who do not meet the
41 requirements set forth in subsection a. of this section for an
42 exemption from such requirements, provided that:

43 (1) the child care center, preschool program, school, or
44 institution of higher education requires each child or student, or the
45 child's or student's parent or guardian, if the child or student is a
46 minor, who is enrolled in the child care center, preschool program,
47 school, or institution of higher education to sign an
48 acknowledgement form, at the time the child or student is enrolled

1 in the child care center, preschool program, school, or institution of
2 higher education, which acknowledgement form shall:

3 (a) set forth the child care center's, preschool program's,
4 school's, or institution of higher education's policy with regard to
5 admitting children or students, as applicable, who are not in full
6 compliance with mandatory immunization requirements; and

7 (b) indicate the immunization rates for the child care center,
8 preschool program, school, or institution of higher education for the
9 prior academic year;

10 (2) the child or student, or the child's or student's parent or
11 guardian if the child or student is a minor, who is not in full
12 compliance with mandatory immunization requirements and who
13 does not meet the requirements for an exemption under subsection
14 a. of this section provides written notice to the child care center,
15 preschool program, school, or institution of higher education
16 identifying which immunization requirements the child or student is
17 not in compliance with, and additionally signs a form that states the
18 child or student, or the child's or student's parent or guardian, as
19 applicable, understands the risks and benefits of vaccination to the
20 child or student and the public health, and acknowledges that the
21 child or student may be excluded from attendance in the event of
22 the occurrence of a communicable disease or condition or threat of
23 a communicable disease or condition, which in the opinion of the
24 Commissioner of Health requires such exclusion from attendance of
25 unvaccinated children or students;

26 (3) the child care center, preschool program, school, or
27 institution of higher education prominently posts its policy with
28 regard to admitting children or students, as applicable, who are not
29 in full compliance with mandatory immunization requirements, and
30 the immunization rates for the child care center, preschool program,
31 school, or institution of higher education for the prior academic
32 year, at each entrance to the child care center, preschool, school, or
33 institution of higher education; and

34 (4) the child care center, preschool program, school, or
35 institution of higher education shall retain the authority to exclude a
36 child or student from attendance in the event of the occurrence of a
37 communicable disease or condition or threat of a communicable
38 disease or condition which, in the opinion of the Commissioner of
39 Health, requires such exclusion from attendance of unvaccinated
40 children or students.

41 e. The Commissioner of Health, pursuant to the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
43 1 et seq.), shall adopt rules and regulations to effectuate the
44 purposes of this section, including requirements concerning the
45 format of acknowledgement forms used for the purposes of
46 complying with subsection d. of this section; except that,
47 notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et
48 seq.) to the contrary, the commissioner may adopt, immediately

1 upon filing with the Office of Administrative Law, such regulations
2 as the commissioner deems necessary to implement the provisions
3 of this section, which shall be effective for a period not to exceed
4 six months and may thereafter be amended, adopted, or re-adopted
5 by the commissioner in accordance with the requirements of
6 P.L.1968, c.410 (C.52:14B-1 et seq.).
7 (cf: P.L.1974, c.150, s.6)

8
9 2. Section 4 of P.L.2002, c.58 (C.18A:61D-10) is amended to
10 read as follows:

11 4. A student shall not be required to receive a vaccination
12 pursuant to section 2 or 3 of **【**this act based upon one of the
13 following:

14 a. a written statement submitted to the secondary school or
15 institution of higher education, as applicable, by a licensed
16 physician indicating that the vaccine is medically contraindicated
17 for a specific period of time and the reasons for the medical
18 contraindication, based upon valid medical reasons as determined
19 by regulation of the Commissioner of Health and Senior Services,
20 which shall exempt the student from the vaccination for the stated
21 period of time; or

22 b. a written statement submitted to the secondary school or
23 institution of higher education, as applicable, by the student, or the
24 student's parent or guardian if the student is a minor, explaining
25 how the administration of the vaccine conflicts with the bona fide
26 religious tenets or practices of the student, or the parent or guardian,
27 as appropriate; except that a general philosophical or moral
28 objection to the vaccination shall not be sufficient for an exemption
29 on religious grounds**】** P.L.2002, c.58 (C.18A:61D-9 or C.18A:40-
30 21.1) if the student qualifies for an exemption as provided in section
31 6 of P.L.1974, c.150 (C.26:1A-9.1).

32 (cf: P.L.2002, c.58, s.4)

33
34 3. Section 3 of P.L.2003, c.284 (C.18A:62-15.2) is amended to
35 read as follows:

36 3. a. A student shall not be required to receive a vaccination
37 pursuant to subsection a. of section 2 of **【**this act based upon one of
38 the following:

39 (1) a written statement submitted to the institution of higher
40 education by a licensed physician indicating that the vaccine is
41 medically contraindicated for a specific period of time and the
42 reasons for the medical contraindication, based upon valid medical
43 reasons as determined by regulation of the Commissioner of Health
44 and Senior Services, which shall exempt the student from the
45 vaccination for the stated period of time; or

46 (2) a written statement submitted to the institution of higher
47 education by the student, or the student's parent or guardian if the
48 student is a minor, explaining how the administration of the vaccine

1 conflicts with the bona fide religious tenets or practices of the
2 student, or the parent or guardian, as appropriate; except that a
3 general philosophical or moral objection to the vaccination shall not
4 be sufficient for an exemption on religious grounds】 P.L.2003,
5 c.284 (C.18A:62-15.1) if the student qualifies for an exemption as
6 provided in section 6 of P.L.1974, c.170 (C.26:1A-9.1).

7 b. In the event of an actual or threatened outbreak of meningitis
8 at a public or private institution of higher education in this State,
9 the institution may exclude from attendance a student who has been
10 exempted from the vaccination requirement of this act pursuant to
11 subsection a. of this section, as determined by the Commissioner of
12 Health 【and Senior Services】.

13 (cf: P.L.2003, c.284, s.3)

14
15 4. Section 4 of P.L.2004, c.138 (C.26:4-134) is amended to
16 read as follows:

17 4. a. There is established a Statewide automated and electronic
18 immunization registry, to be designated as the New Jersey
19 Immunization Information System, in the Department of Health.
20 The registry shall be designed to serve as a single repository of
21 immunization records to aid, coordinate, and help promote effective
22 and cost-efficient disease screening, prevention, and control efforts
23 in the State.

24 b. A newborn infant in New Jersey, who is born on or after
25 January 1, 1998, shall be enrolled in the registry immediately
26 following birth unless the parent or legal guardian of the infant
27 provides a written request to not participate in the registry.

28 A child born prior to January 1, 1998 may be enrolled in the
29 registry at the parent's or legal guardian's written request.

30 c. Access to the information in the registry shall be limited to:
31 health care providers, schools, colleges, licensed child care centers,
32 and public agencies, and private organizations as determined by
33 regulation of the commissioner. A registrant, or the registrant's
34 parent or legal guardian if the registrant is a minor, shall have
35 access to the registrant's immunization and other preventive health
36 screening information in the registry.

37 d. The information contained in the registry shall be used for
38 【the following】 purposes including, but not limited to:

39 (1) to help ensure that registrants receive all recommended
40 immunizations in a timely manner by providing access to the
41 registrants' immunization records;

42 (2) to help improve immunization rates by providing notice to
43 registrants of overdue or upcoming immunizations; and

44 (3) to help control communicable diseases by assisting in the
45 identification of persons who require immediate immunization in
46 the event of a vaccine-preventable disease outbreak.

47 e. The authentic immunization and other preventive health
48 screening record of a child, which shall consist of a paper or

1 electronic copy of the registry entry that is a true and accurate
2 representation of the information contained therein, obtained from
3 the registry shall be accepted as a valid immunization and
4 preventive health screening record of the registrant for the purpose
5 of meeting immunization and preventive health screening
6 documentation requirements for admission to a school, college, or
7 licensed child care center.

8 f. A health care provider shall not discriminate in any way
9 against a person solely because the person elects not to participate
10 in the registry.

11 g. An authorized user granted access as provided in subsection
12 c. of this section shall only access information in the registry on a
13 specific patient or client who is presently receiving services, is
14 under the user's care or is within the applicable governmental health
15 authority's jurisdiction.

16 h. **【**An agency, organization, or other entity authorized to
17 access information in the registry shall not use any report made by a
18 health care provider pursuant to this act in any punitive manner
19 against the provider.**】** (deleted by amendment, P.L. , c.)
20 (pending before the Legislature as this bill)

21 i. A record of an exemption from a mandatory immunization
22 on the grounds of medical contraindication or sibling vaccine injury
23 shall be included in the registry along with supporting
24 documentation. Within one year after the effective date of P.L. ,
25 c. (C.) (pending before the Legislature as this bill), the
26 registry shall be updated with the capability to allow for the
27 inclusion in the registry of relevant forms provided by the
28 Department of Health, including:

29 (1) the form or equivalent information included in the form
30 prescribed by the Commissioner of Health upon which a health care
31 professional provides the reasons for the issuance of a medical
32 exemption to a mandatory immunization, including the name,
33 address, and national provider identifier of the health care
34 professional responsible for completing the prescribed form; and

35 (2) the documentation of sibling vaccine injury required for
36 issuance of a sibling vaccine injury exemption to mandatory
37 immunization.

38 Within one year after the effective date of P.L. , c. (C.)
39 (pending before the Legislature as this bill), the registry shall be
40 updated with the capability to allow for the generation of a printable
41 report of the information placed in the registry as required pursuant
42 to this subsection.

43 **【i.】** j. The commissioner, in consultation with the Public Health
44 Council, shall adopt rules and regulations, pursuant to the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
46 1 et seq.), to effectuate the purposes of this act, including, but not
47 limited to:

48 (1) the establishment and maintenance of the registry;

1 (2) the methods for submitting, and the content of, reports of
2 immunizations to the registry, for which purpose the commissioner
3 shall provide, to the maximum extent practicable, for reporting
4 options to facilitate compliance with the requirements of subsection
5 b. of this section;

6 (3) procedures for the birth hospital of a newborn infant or
7 health care provider, as applicable, to inform the parent or legal
8 guardian of a newborn infant or minor of the purpose of the registry
9 and its potential uses by parties having authorized access to registry
10 information, and the content of that information;

11 (4) procedures for a registrant, or the registrant's parent or legal
12 guardian if the registrant is a minor, to review and correct
13 information contained in the registry;

14 (5) procedures for the parent or legal guardian of a newborn
15 infant or minor, or a person over 18 years of age, to request to not
16 participate in the registry at any time and to remove or inactivate
17 information from the registry;

18 (6) limits on, and methods of, access to the registry by those
19 authorized pursuant to subsection c. of this section;

20 (7) procedures for health insurers to obtain immunization
21 information from the registry concerning only their covered
22 persons, as well as summary statistics, which information or
23 statistics shall not be used or disclosed for any other purpose than
24 to:

25 (a) improve patient care;

26 (b) provide quality assurance to employers purchasing group
27 coverage and to health care providers;

28 (c) improve outreach and education efforts with respect to their
29 covered persons and health care providers; and

30 (d) monitor and improve quality of care standards as developed
31 by professional organizations, accreditation agencies and
32 government agencies in collaboration with the department; and

33 (8) procedures for the department to disseminate statistical
34 information and supporting commentary.

35 (cf: P.L.2012, c.17, s.340)

36

37 5. Section 5 of P.L.1983, c.492 (C.30:5B-5) is amended to read
38 as follows:

39 5. a. The department shall have responsibility and authority to
40 license and inspect child care centers. The commissioner shall
41 promulgate rules and regulations for the operation and maintenance
42 of child care centers which shall prescribe standards governing the
43 safety and adequacy of the physical plant or facilities; the
44 education, health, safety, general well-being and physical and
45 intellectual development of the children; the quality and quantity of
46 food served; the number of staff and the qualifications of each staff
47 member; the implementation of a developmentally appropriate
48 program; the maintenance and confidentiality of records and

1 furnishing of required information; the transportation of children;
2 and the administration of the center. The commissioner shall also
3 promulgate rules and regulations for license application, issuance,
4 renewal, expiration, denial, suspension and revocation. In
5 developing, revising or amending such rules and regulations, the
6 commissioner shall consult with the Child Care Advisory Council
7 created pursuant to section 14 of P.L.1983, c.492 (C.30:5B-14), and
8 with other appropriate administrative officers and agencies,
9 including the Departments of Health **【and Senior Services】**,
10 Education, Labor, Community Affairs and the **【Division of Motor**
11 **Vehicles】** Motor Vehicle Commission giving due weight to their
12 recommendations. The rules and regulations promulgated pursuant
13 to this act shall be adopted and amended in accordance with the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.).

16 b. The department shall conduct an on site facility inspection
17 and shall evaluate the program of the child care center to determine
18 whether the center complies with the provisions of this act.

19 c. Any rule or regulation involving physical examination **【**,
20 immunization**】** or medical treatment other than immunization shall
21 include an appropriate exemption for any child whose parent or
22 parents object thereto on the ground that it conflicts with the tenets
23 and practice of a recognized church or religious denomination of
24 which the parent or child is an adherent or member.

25 d. The department shall have the authority to inspect and
26 examine the physical plant or facilities of a child care center and to
27 inspect all documents, records, files or other data maintained
28 pursuant to this act during normal operating hours and without prior
29 notice.

30 e. The department shall request the appropriate State and local
31 fire, health and building officials to conduct examinations and
32 inspections to determine compliance with State and local
33 ordinances, codes and regulations by a child care center. The
34 inspections shall be conducted and the results reported to the
35 department within 60 days after the request.

36 f. Nothing in this act shall be interpreted to permit the adoption
37 of any code or standard which exceeds the standards established
38 pursuant to the "State Uniform Construction Code Act," P.L.1975,
39 c.217 (C.52:27D-119 et seq.).

40 g. Any rules and regulations adopted by the department
41 pursuant to this act prescribing standards governing the safety and
42 adequacy of the physical plant or facilities of child care centers
43 shall not apply to a child care center operated by a nonprofit
44 organization in a public school building used as a public school.
45 (cf: P.L.2000, c.122, s.2)

1 6. This act shall take effect 180 days after the date of
2 enactment.

3
4
5 STATEMENT

6
7 This bill revises the requirements concerning exemptions from
8 mandatory student immunization requirements.

9 Under the bill, provisions in the State Sanitary Code, or
10 provisions otherwise set forth in statute or regulation, which require
11 the immunization of children in public or private licensed child care
12 centers and students at public or private elementary or secondary
13 schools and institutions of higher education, are to provide for an
14 exemption from the mandatory immunization requirements based
15 upon a statement submitted to the child care center, elementary or
16 secondary school, or institution of higher education, as applicable,
17 using a standard form designated by the Department of Health by a
18 licensed physician, doctor of osteopathy, or advanced practice nurse
19 indicating: (1) that the vaccine is medically contraindicated for a
20 specific period of time; (2) the professional's full name, address,
21 and national provider identifier (or the national provider identifier
22 of the professional's collaborating physician); and (3) the reasons
23 for the medical contraindication, which are to be valid medical
24 reasons consistent with guidelines issued by the Advisory
25 Committee on Immunization Practices (ACIP) in the federal
26 Centers for Disease Control and Prevention. The child or student
27 will be exempt from receiving the indicated vaccination for the
28 stated period of time.

29 In addition, the bill authorizes an exemption from mandatory
30 immunization requirements for a child or student who has a sibling
31 who experienced a vaccine injury. To qualify for the exemption,
32 the child or student will be required to submit to the Department of
33 Health documentation of a final determination of vaccine injury
34 issued through the Vaccine Injury Compensation Program
35 administered by the Health Resources and Services Administration
36 in the United States Department of Health and Human Services or a
37 final judgment issued by a court of competent jurisdiction that
38 includes a finding of vaccine injury. Documentation of the
39 department's approval of a sibling vaccine injury exemption will be
40 submitted to the school or child care center by the child or student,
41 or by the child or student's parent or guardian, if the child or
42 student is a minor.

43 Medical and sibling vaccine injury exemptions may be subject to
44 review and approval by a physician employed by or consulting for
45 the county or local board of health, and may be audited by county
46 and local boards of health. Approved medical and sibling vaccine
47 injury exemptions will be forwarded for inclusion in the New Jersey
48 Immunization Information System (NJIIS). The bill requires the

1 NJIIS to be updated no later than one year after the effective date of
2 the bill to allow for the inclusion of medical exemption information,
3 and to allow for a printable report of information included in the
4 registry.

5 The bill prohibits a public child care center, elementary or
6 secondary school, or institution of higher education from exempting
7 a child or student from a mandatory immunization unless the child
8 or student, or the child's or student's parent or guardian if the child
9 or student is a minor, complies with all of the applicable
10 requirements set forth in the bill.

11 The bill allows nonpublic child care centers, preschool programs,
12 elementary and secondary schools, and institutions of higher
13 education to adopt a policy authorizing the admission of children
14 and students who are not in full compliance with mandatory
15 immunization requirements and who do not meet the requirements
16 for a medical or sibling vaccine injury exemption, provided that the
17 facility requires each child or student enrolled in the child care
18 center, preschool program, school, or institution of higher
19 education, or the child's or student's parent or guardian if the child
20 or student is a minor, to sign an acknowledgement form, at the time
21 of enrollment, that sets forth the facility's policy with regard to
22 admitting children or students who are not in full compliance with
23 mandatory immunization requirements, and that indicates the
24 immunization rates for the facility for the prior academic year. The
25 child care center, preschool program, school, or institution of higher
26 education will additionally be required to prominently post its
27 policy concerning the admission of children or students who are not
28 fully immunized, and the facility's immunization rates for the prior
29 academic year, at each entrance to the facility. The Commissioner
30 of Health will be required to adopt rules and regulations concerning
31 the format of acknowledgement forms used by nonpublic schools
32 for this purpose.

33 A child or student who is not in compliance with mandatory
34 immunization requirements who seeks to attend the nonpublic child
35 care center, preschool program, school, or institution of higher
36 education will be required to provide the facility with written notice
37 of which specific immunization requirements the child or student is
38 not in compliance with and sign a form that states that the child or
39 student, or the child or student's parent or guardian, as applicable,
40 understands the risks and benefits of vaccination and acknowledges
41 that the child or student may be excluded from attendance in the
42 event of the occurrence of a communicable disease or condition or
43 threat of a communicable disease or condition.

44 The bill provides that the current statutory list of uses for the
45 NJIIS is nonexclusive. The bill additionally removes a provision of
46 current law that provides that an agency, organization, or other
47 entity authorized to access information in the NJIIS may not use

1 any report made by a health care provider in any punitive manner
2 against the provider.

3 The bill provides the Commissioner of Health with expedited
4 rulemaking authority in order to provide guidance to child care
5 centers, schools, and public health authorities, as they will need to
6 implement its provisions on a timely basis, including creating
7 acknowledgement forms that may be used by nonpublic institutions
8 that admit children and students who are not fully compliant with
9 mandatory immunization requirements.

10 The provisions of the bill will take effect 180 days after the date
11 of enactment.