WEST virginia legislature

2022 regular session

Introduced

Senate Bill 23

By Senators Rucker, Azinger, Boley, Grady, Karnes, Maynard, Phillips, Smith, Sypolt, Woodrum, Roberts, and Martin

[Introduced January 12, 2022; referred  
to the Committee on Health and Human Resources]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-65-1, §16-65-2, §16-65-3, §16-65-4, and §16-65-5, all relating to the prohibition of mandatory COVID-19 vaccinations for West Virginia residents; providing for definitions; generally prohibiting governmental entities from mandating the COVID-19 vaccine; prohibiting the requirement of mandatory vaccine passports; and providing for certain exceptions and clarifications.

Be it enacted by the Legislature of West Virginia:

ARTICLE 65. COVID-19 VACCINE RESTRICTIONS ACT.

§16-65-1. Short title.

This article is known as the “COVID-19 Vaccine Restrictions Act.”

§16-65-2. Definitions.

As used in this section:

1. “Governmental entity” means:
2. An executive branch agency;
3. The legislative branch;
4. The judicial branch;
5. The West Virginia Board of Education;
6. The West Virginia Higher Education Policy Commission;
7. A public institution of higher education; and

(7) A political subdivision of the state.

(b) “Emergency COVID-19 vaccine” means a substance that is:

(1) Authorized for use by the United States Food and Drug Administration under an emergency use authorization under 21 U.S.C. Sec. 360bbb-3;

(2) Injected into or otherwise administered to an individual; and

(3) Intended to immunize an individual against COVID-19.

§16-65-3. Governmental entities prohibited from requiring COVID-19 vaccines.

Except as otherwise provided, a governmental entity may not require, directly or indirectly, that an individual receive an emergency COVID-19 vaccine. The prohibited activities under include:

(a) Making rules that require, directly or indirectly, that an individual receive an emergency COVID-19 vaccine;

(b) Requiring that an individual receive an emergency COVID-19 vaccine as a condition of:

(1) Employment;

(2) Participation in an activity of the governmental entity, including outside or extracurricular activities; or

(3) Attendance at events that are hosted or sponsored by the governmental entity; and

(c) Any action that a reasonable person would not be able to deny without significant harm to the individual.

§16-65-4. Prohibition of vaccine passports.

As used in this section, “vaccine passport” means documentation that an individual has been vaccinated against coronavirus 2019 (COVID-19). The state, a state agency or entity, a political subdivision of the state, or a state or local official shall not require an individual to use a vaccine passport in this state for any purpose. The use of a vaccine passport shall not be a condition for entry, travel, education, or services.

§16-65-5. Exceptions.

This does not include:

(a) Facilitating the distribution, dispensing, administration, coordination, or provision of an emergency COVID-19 vaccine;

(b) An employee of a governmental entity who is:

(1) Acting in a public health or medical setting; and

(2) Required to receive vaccinations in order to perform the employee's assigned duties and responsibilities; or

(3) Enforcement by a governmental entity of a non-discretionary requirement under federal law.

This section may not be suspended or modified by the governor or any other chief executive officer under §15-5-6 of this Code.

NOTE: The purpose of this bill is to prohibit the requirement of the COVID-19 vaccine and “vaccine passports” in the state of West Virginia.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.