

2025 South Dakota Legislature

House Bill 1223**AMENDMENT 1223D
FOR THE HOUSE HEALTH AND HUMAN SERVICES
ENGROSSED BILL**

1 **An Act to provide for conscience exemptions from ~~certain~~ genetic-based**
2 **vaccinations.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 34-22-18 be AMENDED:**

5 **34-22-18.** Any ~~person~~ individual in the state reasonably suspected of having
6 active tuberculosis, middle east respiratory syndrome ~~(MERS)~~, severe acute respiratory
7 syndrome ~~(SARS)~~, smallpox, or viral hemorrhagic fevers, or any disease or condition
8 ~~which that~~ is the subject of a declared public health emergency pursuant to § 34-22-42,
9 shall accept a necessary diagnosis or treatment, or both. Any ~~person~~ individual who
10 intentionally refuses to accept the diagnosis or treatment, or both, or who fails to follow
11 the reasonable and necessary directives of the department issued for the protection of
12 other ~~persons~~ individuals, is guilty of a Class 1 misdemeanor.

13 An individual is not required to receive a genetic-based vaccination, as defined in
14 section 2 of this Act, for a disease or condition that is the subject of a declared public
15 health emergency if the individual has exercised the right to a conscience exemption for
16 the ~~treatment~~ vaccination, as provided in ~~sections 2 to 7, inclusive, section 3~~ of this Act.

17 **Section 2. That a NEW SECTION be added to title 34:**

18 Terms used in sections ~~2 to 7, inclusive, 3 and 4~~ of this Act mean:

- 19 (1) "Conscience," an individual's inner conviction regarding that which is right or wrong
20 in the individual's conduct;
21 (2) "Disciplinary action," either of the following:
22 (a) Termination, demotion, or ~~any loss of employment status other adversarial~~
23 ~~employment action~~; or
24 (b) Any loss of student status, including status in a particular course or program
25 of study; and

1 (3) "~~Vaccination~~Genetic-based vaccination," a vaccination ~~approved by the United~~
2 States Food and Drug Administration that functions by utilizing, modifying, or
3 transferring genetic material to induce an immune response. The term includes
4 vaccinations developed using messenger ribonucleic acid technology, modified
5 messenger ribonucleic technology, self-amplifying messenger ribonucleic
6 technology, or deoxyribonucleic technology.

7 **Section 3. That a NEW SECTION be added to title 34:**

8 An individual has the right to be exempt from any mandate, requirement,
9 obligation, or demand to receive a genetic-based vaccination on the basis that receiving
10 the vaccination violates the individual's conscience. An individual may exercise the right
11 to be exempt ~~under sections 2 to 7, inclusive, of this Act~~ orally or in writing.

12 **Section 4. That a NEW SECTION be added to title 34:**

13 No individual may ~~be:~~
14 (1) Have the individual's employment or student status conditioned upon the receipt
15 of a genetic-based vaccination; or
16 (2) Be subjected to any disciplinary action as a result of the individual's decision to
17 decline receipt of a genetic-based vaccination on the basis of conscience.

18 An employer shall provide reasonable accommodations to an employee claiming a
19 conscience exemption under section 3 of this Act to protect the safety and health of
20 employees and other individuals from communicable diseases.

21 No state agency, political subdivision, or ~~person~~ public accommodation may refuse
22 to provide any service, product, admission to a venue or building, or transportation to an
23 individual because that individual has or has not received a genetic-based vaccination.

24 ~~**Section 5. That a NEW SECTION be added to title 34:**~~

25 ~~Before any state agency, political subdivision, or person attempts to mandate or require that~~
26 ~~an individual receive a vaccination, or attempts to condition an individual's job or student~~
27 ~~status upon the receipt of a vaccination, the state agency, political subdivision, or person~~
28 ~~must inform the individual of the right to the conscience exemption under sections 2 to 7,~~
29 ~~inclusive, of this Act.~~

30 ~~**Section 6. That a NEW SECTION be added to title 34:**~~

~~A civil action for damages or injunctive relief, or both, may be brought by any individual for any violation of sections 3 to 5, inclusive, of this Act. An individual, who is aggrieved by any violation of sections 3 to 5, inclusive, of this Act and commences a civil action, is entitled, upon the finding of a violation, to recover threefold the actual damages sustained, along with the costs of the action and reasonable attorney's fees.~~

Section 5. That a NEW SECTION be added to title 34:

~~Sections 3 to 6, inclusive, and 4~~ of this Act do not apply to:

(1) ~~The following, if compliance would result in a violation of regulations issued by the Centers for Medicare and Medicaid Services or by the Centers for Disease Control and Prevention:~~

(a) ~~A community mental health center;~~

(b) ~~A community services provider or community support provider, as defined in § 27B-1-17;~~

(c) ~~A health care facility, as defined in chapter 34-12; or~~

(d) ~~An intermediate care facility for individuals with intellectual disabilities;~~

(2) ~~Immunizations required for admission to school or an early childhood program, as described in § 13-28-7.1;~~

(3) ~~Medical treatment Genetic-based vaccinations~~ required by a clinical placement location, if the clinical placement location is required for continued enrollment in, or completion of, a health sciences program offered by the Board of Regents or South Dakota Board of Technical Education;

(4) ~~Court-ordered medical treatment genetic-based vaccinations; or~~

~~(5) Medical treatment administered to an individual who is experiencing a mental health crisis and is determined, by a qualified mental health professional, to be in an immediate danger to oneself or others; and~~

~~(6)(5) The South Dakota National Guard.~~

~~Sections 3 to 6, inclusive, of this Act do not prevent the South Dakota National Guard from requiring a vaccination in compliance with a valid and lawful command order that applies to a servicemember who is subject to federal activation.~~