



2025 South Dakota Legislature

House Bill 1223**HOUSE HEALTH AND HUMAN SERVICES ENGROSSED**

Introduced by: **Representative Andera**

1 **An Act to provide for conscience exemptions from certain vaccinations.**

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

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

4 **34-22-18.** Any ~~person~~ individual in the state reasonably suspected of having
 5 active tuberculosis, middle east respiratory syndrome ~~(MERS)~~, severe acute respiratory
 6 syndrome ~~(SARS)~~, smallpox, or viral hemorrhagic fevers, or any disease or condition
 7 ~~which that~~ is the subject of a declared public health emergency pursuant to § 34-22-42,
 8 shall accept a necessary diagnosis or treatment, or both. Any ~~person~~ individual who
 9 intentionally refuses to accept the diagnosis or treatment, or both, or who fails to follow
 10 the reasonable and necessary directives of the department issued for the protection of
 11 other ~~persons~~ individuals, is guilty of a Class 1 misdemeanor.

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

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

17 Terms used in sections 2 to 7, inclusive, of this Act mean:

- 18 (1) "Conscience," an individual's inner conviction regarding that which is right or wrong
 19 in the individual's conduct;
 20 (2) "Disciplinary action," either of the following:
 21 (a) Termination, demotion, or any loss of employment status; or
 22 (b) Any loss of student status, including status in a particular course or program
 23 of study; and
 24 (3) "Vaccination," a vaccination approved by the United States Food and Drug
 25 Administration.

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

2 An individual has the right to be exempt from any mandate, requirement,
3 obligation, or demand to receive a vaccination on the basis that receiving the vaccination
4 violates the individual's conscience. An individual may exercise the right to be exempt
5 under sections 2 to 7, inclusive, of this Act orally or in writing.

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

7 No individual may be subjected to any disciplinary action as a result of the
8 individual's decision to decline receipt of a vaccination on the basis of conscience.

9 No state agency, political subdivision, or person may refuse to provide any service,
10 product, admission to a venue or building, or transportation to an individual because that
11 individual has or has not received a vaccination.

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

13 Before any state agency, political subdivision, or person attempts to mandate or
14 require that an individual receive a vaccination, or attempts to condition an individual's
15 job or student status upon the receipt of a vaccination, the state agency, political
16 subdivision, or person must inform the individual of the right to the conscience exemption
17 under sections 2 to 7, inclusive, of this Act.

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

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

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

25 Sections 3 to 6, inclusive, of this Act do not apply to:

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

29 (a) A community mental health center;

- 1 (b) A community services provider or community support provider, as defined
- 2 in § 27B-1-17;
- 3 (c) A health care facility, as defined in chapter 34-12; or
- 4 (d) An intermediate care facility for individuals with intellectual disabilities;
- 5 (2) Immunizations required for admission to school or an early childhood program, as
- 6 described in § 13-28-7.1;
- 7 (3) Medical treatment required by a clinical placement location, if the clinical placement
- 8 location is required for continued enrollment in, or completion of, a health sciences
- 9 program offered by the Board of Regents or South Dakota Board of Technical
- 10 Education;
- 11 (4) Court-ordered medical treatment;
- 12 (5) Medical treatment administered to an individual who is experiencing a mental
- 13 health crisis and is determined, by a qualified mental health professional, to be in
- 14 an immediate danger to oneself or others; and
- 15 (6) The South Dakota National Guard.
- 16 Sections 3 to 6, inclusive, of this Act do not prevent the South Dakota National
- 17 Guard from requiring a vaccination in compliance with a valid and lawful command order
- 18 that applies to a servicemember who is subject to federal activation.