

2025 South Dakota Legislature

House Bill 1223**AMENDMENT 1223B
FOR THE INTRODUCED BILL**

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

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 treatment for a disease or condition that is
13 the subject of a declared public health emergency if the individual has exercised the right
14 to a conscience exemption for the treatment, as provided in sections 2 to 7, inclusive, of
15 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) "Medical treatment," any of the following:

25 (a) An injection;

- 1 **(b) An invasive medical procedure;**
2 **(c) A medication; or**
3 **(d) A vaccination approved by the United States Food and Drug Administration.**

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

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

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

10 No individual may be subjected to any disciplinary action as a result of the
11 individual's decision to decline receipt of a medical treatment on the basis of conscience.
12 No state agency, political subdivision, or person may refuse to provide any service,
13 product, admission to a venue or building, or transportation to an individual because that
14 individual has or has not received a medical treatment.

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

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

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

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

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

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

- 1 ~~(1) A health care facility, as defined in chapter 34-12,~~ The following, if compliance
2 would result in a violation of regulations issued by the Centers for Medicare and
3 Medicaid Services or by the Centers for Disease Control and Prevention:
4 (a) A community mental health center;
5 (b) A community services provider or community support provider, as defined
6 in § 27B-1-17;
7 (c) A health care facility, as defined in chapter 34-12; or
8 (d) An intermediate care facility for individuals with intellectual disabilities;
9 ~~(2)~~ Immunizations required for admission to school or an early childhood program, as
10 described in § 13-28-7.1;
11 ~~(3)~~ Medical treatment required by a clinical placement location, if the clinical placement
12 location is required for continued enrollment in, or completion of, a health sciences
13 program offered by the Board of Regents or South Dakota Board of Technical
14 Education;
15 ~~(4)~~ Court-ordered medical treatment;
16 ~~(4)(5)~~ Medical treatment administered to an individual who is experiencing a mental
17 health crisis and is determined, by a qualified mental health professional, to be in
18 an immediate danger to oneself or others; and
19 ~~(5)(6)~~ The South Dakota National Guard.
20 Sections 3 to 6, inclusive, of this Act do not prevent the South Dakota National
21 Guard from requiring a medical treatment in compliance with a valid and lawful command
22 order that applies to a servicemember who is subject to federal activation.