

Medical Freedom Bill of Rights

General Description:

This bill clarifies rights of citizens in relation to medical treatment options

Highlighted Provisions:

This bill:

- clarifies vaccination exemption form requirements
- Imposes fines for failure to comply with exemption form requirements
- clarifies the definition of second medical opinions
- clarifies the right to due process in compliance with the state and federal constitutions

Utah Code Sections Affected:

Amends 53G-9-303, 78A-6-301.5

Section **53G-9-303** (Effective 07/01/18) is amended to read:

53G-9-303. Grounds for exemption from required vaccines -- Renewal.

A student is exempt from the requirement to receive a vaccine required under Section [53G-9-305](#) if the student qualifies for a medical or personal exemption from the vaccination under Subsection (2) or (3) **or (4)**.

(2) A student qualifies for a medical exemption from a vaccination required under Section [53G-9-305](#) if the student's legally responsible individual provides to the student's school:

(a) a completed vaccination exemption form; and

(b) a written notice signed by a licensed health care provider stating that, due to the physical condition of the student, administration of the vaccine would endanger the student's life or health.

(3) A student qualifies for a personal exemption from a vaccination required under Section [53G-9-305](#) if the student's legally responsible individual provides to the student's school a completed vaccination exemption form, stating that the student is exempt from the vaccination because of a personal or religious belief.

(4) A student also qualifies for a personal exemption when a parent or legally responsible individual signs and provides the student's school a statement notifying the school that the student is exempt from the vaccination because of a personal belief. Under this section a form is not required.

~~(4)~~ **(5)** (a) A vaccination exemption form submitted under this section is valid for as long as the student remains at the school to which the form first is presented.

(b) If the student changes schools before the student is old enough to enroll in kindergarten, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:

(i) the student enrolls in kindergarten; or

(ii) the student turns six years old.

(c) If the student changes schools after the student is old enough to enroll in kindergarten but before the student is eligible to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:

(i) the student enrolls in grade 7; or

(ii) the student turns 12 years old.

(d) If the student changes schools after the student is old enough to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the student completes grade 12.

(e) Notwithstanding Subsections (4)(b) and (c), a vaccination exemption form obtained through completion of the online education module created in Section [26-7-9](#), **or note provided in compliance with section [53G-9-303\(4\)](#)**, is valid for at least two years.

(f) any vaccination exemption form obtained through completion of the online education module created in Section [26-7-9](#), or the form as defined in [53G-9-304](#), cannot contain incriminating language stating that parents

admit guilt or negligence in any degree to a crime. This form cannot be used against a parent or responsible party in a court of law.

(g) Failure of school employee to accept the note as described in Section 53G-9-303(4) will result in fines of \$10,000 per violation of which the violator (the school or school district) is liable and for which the health department is liable, fines to be paid directly to the student's legally responsible individual within ninety days of the first violation.

Section 4. Section 78A-6-301.5 is enacted to read:

78A-6-301.5. Second medical opinion.

(1) In cases of alleged medical neglect where the division seeks protective custody, temporary custody, or custody of the child based on the report or testimony of a physician or any witness making claims of neglect, a parent or guardian shall **be presumed innocent until proven guilty and** have ~~a reasonable amount of time, as determined by the court,~~ **the right** to obtain a second medical opinion from another physician of the parent's or guardian's ~~choosing who has expertise in the applicable field.~~ **who is credentialed in a manner that is satisfactory to the parents or guardians. The division shall only be awarded custody of a child if a jury of their peers in a court of law convicts both parents, or all available legal guardians, of willfully and maliciously causing objective and tangible harm to the child. Psychological and other subjective definitions of harm will not be grounds to grant custody to the division or for removing parental rights of any kind.**

(2) **Regardless of any risk of** ~~Unless there is an~~ **imminent risk of** death or a deteriorating condition of the child's health, the child shall remain in the custody of the parent or guardian while the parent or guardian obtains a second medical opinion **and after that opinion has been obtained, except for when the guilty verdict from the jury trial condition is met, as mentioned in subsection (1).**

(3) ~~If the second medical opinion results in a different diagnosis or treatment recommendation from that of the opinion of the physician the division used, the~~ **The** court shall **always** give deference to the second medical opinion **if that is the choice of the parent, except for when the guilty verdict from the jury trial condition is met, as mentioned in subsection (1).** ~~as long as that opinion is reasonable and informed and is consistent with treatment that is regularly prescribed by medical experts in the applicable field.~~

(4) **The law hereby acknowledges a parent's right to choose any medical treatment that they wish for their child, acknowledging that parents will always have the strongest desire above all others to find the best care for a child's specific circumstance, including in emergency circumstances.** ~~Subsections (1) through (3) do not apply to emergency treatment or care when the child faces an~~ **Including cases where claims of** immediate threat of death or serious and irreparable harm and when there is insufficient time to safely allow the parent or guardian to provide alternative necessary care and treatment of the parent's or guardian's choosing.

(5) The medical principle of informed consent will always be followed, giving absolute control to parents or legal guardians, except for when the guilty verdict from the jury trial condition is met, as mentioned in subsection (1).

Section 4. Section 78A-6-301.6 is enacted to read:

78A-6-301.6. Conflicts of Interest with second medical opinion(1) Any 3rd party entity that could be considered to financially benefit from private or government funds in the event of the transfer of custody of a child is hereby banned from having employees or offices in the same building as any medical facility in the state. This includes, but is not necessarily limited to, the Utah Division of Child and Family Services.