

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

HOUSE BILL 1974

By: Representative Rye

## For An Act To Be Entitled

AN ACT TO AUTHORIZE THE GOVERNOR TO ISSUE AN EXECUTIVE ORDER OR PROCLAMATION REQUIRING USE OF CERTAIN PROTECTIONS IN PUBLIC SCHOOL DISTRICTS AND OPEN ENROLLMENT PUBLIC CHARTER SCHOOLS WHERE SIX AND FIVE-TENTHS PERCENT (6.5%) OF STUDENTS, FACULTY, AND STAFF HAVE TESTED POSITIVE FOR CORONAVIRUS 2019 (COVID-19) IN THE PAST TWO (2) WEEKS; TO ALLOW A PARENTS OR LEGAL GUARDIAN TO OPT OUT OF CERTAIN PROTECTIONS FOR HIS OR HER CHILD; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO AUTHORIZE THE GOVERNOR TO REQUIRE USE OF CERTAIN PROTECTIONS IN SCHOOLS IF CERTAIN REQUIREMENTS ARE MET; TO ALLOW A PARENT OR LEGAL GUARDIAN TO OPT OUT OF CERTAIN PROTECTIONS; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-7-142(e), concerning the prohibition on the mandatory use of face masks, face shields, or other face coverings, is amended to read as follows:

(e) This section does not apply to a face covering requirement imposed by:

(1) A private business;



- (2) A state-owned or state-controlled healthcare facility;
- (3) A facility operated by the Department of Corrections; ~~or~~
- (4) A facility operated by the Division of Youth Services of the Department of Human Services; or
- (5) An executive order or proclamation issued by the Governor under subsection (f) of this section.

SECTION 2. Arkansas Code § 20-7-142 is amended to add an additional subsection to read as follows:

(f)(1) The Governor may issue an executive order or proclamation requiring one (1) or more public school districts or open enrollment public charter schools to require the use of face masks, face shields, or other face coverings in school buildings, school buses, or other congregate educational settings during times dedicated for academic purposes for a period not to exceed thirty (30) days if:

(A) The public school districts or open enrollment public charter schools are within the area of a state of disaster emergency related to public health declared by the Governor under the Arkansas Emergency Services Act of 1973, § 12-75-101, including without limitation a statewide state of disaster emergency related to public health; and

(B) Within the past two (2) weeks, six and five-tenths percent (6.5%) or more of the students, faculty, and staff of the public school district or open enrollment public charter school have tested positive for coronavirus 2019 (COVID-19).

(2) A student of a public school district or open enrollment public charter school shall not be required to comply with a requirement under subdivision (f)(1) of this section if his or her parent or legal guardian provides written notice to the public school district or open enrollment public charter school that the student shall not be required to wear a face mask, face shield, or other face covering.

(3) A public school district or open enrollment public charter school that incurs costs as the result of an executive order or proclamation issued under this subsection may use, to the extent permitted, funds distributed to the public school district or open enrollment public charter school to pay for costs incurred in relation to the coronavirus 2019 (COVID-19) pandemic, including without limitation coronavirus 2019 (COVID-19) relief

funds distributed from the American Rescue Plan Act of 2021, Pub. L. No. 117-2.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Governor issued Executive Order 21-14 to declare a statewide state of disaster emergency related to public health to meet and mitigate the impact of coronavirus 2019 (COVID-19); that the Delta variant of coronavirus 2019 (COVID-19) has infected thousands of Arkansans in recent months; that children of certain ages are not eligible to receive a coronavirus 2019 (COVID-19) vaccine; that the beginning of the school year is scheduled to start this month across the state, placing children at risk of contracting coronavirus 2019 (COVID-19); that in-person instruction is the best method for educating children; and that this act is immediately necessary to provide the Governor with flexibility to respond to this public health emergency and to protect the children of this state in public schools and open-enrollment public charter schools. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.