

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

SENATE BILL 736

By: Senator B. Ballinger  
By: Representatives Bryant, Haak

## For An Act To Be Entitled

AN ACT REGARDING ISSUES IN EMPLOYMENT RELATED TO CORONAVIRUS 2019 (COVID-19); TO PROVIDE EXEMPTIONS FOR EMPLOYEES FROM FEDERAL MANDATES AND EMPLOYER MANDATES RELATED TO CORONAVIRUS 2019 (COVID-19); TO AUTHORIZE UNEMPLOYMENT BENEFITS FOR AN INDIVIDUAL TERMINATED DUE TO A REFUSAL TO BE VACCINATED AGAINST CORONAVIRUS 2019 (COVID-19); TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO ADDRESS MANDATES RELATED TO CORONAVIRUS 2019 (COVID-19); TO PROVIDE EXEMPTIONS FOR EMPLOYEES FROM MANDATES RELATED TO CORONAVIRUS 2019 (COVID-19); AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) The United States Government is mandating that employers take actions related to coronavirus 2019 (COVID-19) vaccinations, including forcing an employee to be vaccinated against the employee's will;

(2) Vaccination mandates are an overreach of authority;

(3) Many employers and employees in Arkansas will soon be subject to this vaccination mandate; and



(4) Arkansas employees need to be protected from this type of overreach.

(b) The General Assembly intends for this act to:

(1) Protect employees in Arkansas from impending terminations due to vaccination mandates; and

(2) Create the ability for funding to be available to assist employees in Arkansas with the costs associated with testing related to the vaccination mandate through the methods provided in this act, including without limitation coronavirus 2019 (COVID-19) relief funds distributed from the American Rescue Plan Act of 2021, Pub. L. No. 117-2.

SECTION 2. Arkansas Code Title 11, Chapter 5, Subchapter 1, is amended to add an additional section to read as follows:

11-5-118. Exemption for employees from mandates related to coronavirus 2019 (COVID-19).

(a) An employer that requires or is mandated to require treatment for coronavirus 2019 (COVID-19) or its variants, including without limitation a vaccination or immunization, for its employees shall provide a specific exemption process.

(b) The specific exemption process shall include options that allow the employee to produce either:

(1) A negative antigen detection test result or molecular diagnostic test result no more than one (1) time per week showing that the employee is not positive for coronavirus 2019 (COVID-19); or

(2) Proof of the presence of antibodies or T cell response for the virus that causes coronavirus 2019 (COVID-19) on an annual basis from a licensed healthcare provider through a serological test.

(c)(1) If multiple proven test processes are available to an employee under subsection (b) of this section, the employee may choose which test to take.

(2) The employee may provide test results obtained outside of the employer or a licensed healthcare provider if the test meets the guidelines contained within the Policy for Coronavirus Disease-2019 Tests During the Public Health Emergency (Revised) issued by the United States Department of Health and Human Services Food and Drug Administration Center for Devices and Radiological Health.

(3) The cost of the testing shall be covered:

(A) Through the employee's health benefit plan; or

(B) If coverage is not provided under subdivision (c)(3)(A) of this section, through any state or federal funding made available to the general public or the employer to cover the test, including without limitation coronavirus 2019 (COVID-19) relief funds distributed from the American Rescue Plan Act of 2021, Pub. L. No. 117-2.

(d) An employer shall provide the specific exemption process required under this section in addition to any other exemptions offered by the employer.

(e) If an employee complies with the requirements of the specific exemption process related to coronavirus 2019 (COVID-19) as required by this section, the employee shall not be terminated for mandates related to coronavirus 2019 (COVID-19).

(f) Nothing in this section should be interpreted to modify any other agreements between the employer and employee or to amend or affect the employment-at-will doctrine, whether written or otherwise.

(g) The Department of Finance and Administration shall establish rules regarding the method of distribution of coronavirus 2019 (COVID-19) relief funds from the American Rescue Plan Act of 2021, Pub. L. No. 117-2, to employees and employers to cover the cost of testing, to include without limitation the:

(1) Timely distribution of funds to recipients within thirty (30) days;

(2) Establishment of an option for distribution to an employer that chooses to receive funds for disbursement to employees; and

(3) Verification and method of authentication of receipts that shall meet legislative auditing requirements, including without limitation the development of forms.

(h) The department shall report to the Legislative Council on a monthly basis on the disbursement of funds under this section.

(i) If an employee is terminated due to the employer's violation of this section, the employee may be eligible for unemployment benefits in addition to any other remedy available to the employee.

(j) This section shall expire on July 31, 2023, unless extended by the General Assembly.

SECTION 3. Arkansas Code § 11-10-514, concerning disqualification for unemployment benefits generally due to discharge for misconduct, is amended to add an additional subsection to read as follows:

(d) An individual shall not be disqualified for benefits if he or she is terminated solely due to a refusal to be vaccinated against coronavirus 2019 (COVID-19) or its variants.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that mandates forcing actions related to coronavirus 2019 (COVID-19) vaccinations are an overreach of authority; that vaccination mandates will be imposed on many employers and employees in Arkansas; that employees are facing impending terminations related to exercising their rights to refuse a vaccination; and that this act is immediately necessary to protect the people of Arkansas from this type of overreach. 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.