

State of Arkansas
93rd General Assembly
First Extraordinary Session, 2021

A Bill

Call Item 1
HOUSE BILL 1003

By: Representatives J. Mayberry, Gazaway

For An Act To Be Entitled

AN ACT CONCERNING THE MANDATORY USE OF FACE MASKS,
FACE SHIELDS, OR OTHER FACE COVERINGS IN PUBLIC
SCHOOLS; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE MANDATORY
USE OF FACE MASKS, FACE SHIELDS, OR OTHER
FACE COVERINGS IN PUBLIC SCHOOLS; AND TO
DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 20-7-144(e), concerning exceptions to the prohibition against mandating face masks, face shields, or other face coverings and conditions under which face masks, face shields, or other face coverings may be mandated, 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;
- (5) A public school district that mandates the use of a face mask, face shield, or other face covering in a school building, school bus, or other congregate educational setting within the public school district where children under twelve (12) years of age may be present during times



dedicated for academic purposes only if:

(A) The school district has a fourteen-day coronavirus 2019 (COVID-19) infection rate of at least fifty (50) new known infections per ten thousand (10,000) residents of the public school district based on the most recent data published by the Department of Health or the Arkansas Center for Health Improvement; and

(B) The local school board of directors votes on and approves the mandate; or

(6) An open-enrollment public charter school that mandates the use of a face mask, face shield, or other face covering in a school building, school bus, or other congregate educational setting of the open-enrollment public charter school where children under twelve (12) years of age may be present during times dedicated for academic purposes only if the county in which the open-enrollment public charter school is located has a fourteen-day coronavirus 2019 (COVID-19) infection rate of at least fifty (50) new known infections per ten thousand (10,000) residents of the county based on the most recent data published by the Department of Health or the Arkansas Center for Health Improvement.

SECTION 2. Arkansas Code § 20-7-144, concerning the prohibition against mandating face masks, face shields, or other face coverings and conditions under which face masks, face shields, or other face coverings may be mandated, is amended to add additional subsections to read as follows:

(f)(1) A mandate regarding the use of face masks, face shields, or other face coverings imposed by a public school district or open-enrollment public charter school under subsection (e) of this section shall not exceed sixty (60) days.

(2)(A) At the conclusion of the period during which the mandate under subdivision (f)(1) of this section is imposed, a public school district or open-enrollment public charter school may choose to impose a new mandate, for a time period not exceeding sixty (60) days, regarding the use of face masks, face shields, or other face coverings in a school building, school bus, or other congregate educational setting where children under twelve (12) years of age may be present during times dedicated for academic purposes only if:

(i) For public school districts, the school district

has a fourteen-day coronavirus 2019 (COVID-19) infection rate of at least fifty (50) new known infections per ten thousand (10,000) residents of the public school district based on the most recent data published by the Department of Health or the Arkansas Center for Health Improvement; and

(ii) For open-enrollment public charter schools, the county in which the open-enrollment public charter school is located has a fourteen-day coronavirus 2019 (COVID-19) infection rate of at least fifty (50) new known infections per ten thousand (10,000) residents of the county based on the most recent data published by the Department of Health or the Arkansas Center for Health Improvement.

(B) At the conclusion of each newly imposed mandate regarding the use of face masks, face shields, or other face coverings under this section, a public school district or open-enrollment public charter school may reevaluate the necessity of a new mandate, for a time period not exceeding sixty (60) days, regarding the use of face masks, face shields, or other face coverings in a school building, school bus, or other congregate educational setting where children under twelve (12) years of age may be present during times dedicated for academic purposes only if:

(i) For public school districts, the school district has a fourteen-day coronavirus 2019 (COVID-19) infection rate of at least fifty (50) new known infections per ten thousand (10,000) residents of the public school district based on the most recent data published by the Department of Health or the Arkansas Center for Health Improvement; and

(ii) For open-enrollment public charter schools, the county in which the open-enrollment public charter school is located has a fourteen-day coronavirus 2019 (COVID-19) infection rate of at least fifty (50) new known infections per ten thousand (10,000) residents of the county based on the most recent data published by the Department of Health or the Arkansas Center for Health Improvement.

(g)(1) When instituting a mandate regarding the use of face masks, face shields, or other face coverings under this section, a public school district or open-enrollment public charter school may develop a policy for the implementation of the mandate based on recommendations from the Department of Health and the Department of Education.

(2) A policy developed under subdivision (g)(1) of this section shall take into consideration circumstances under which a face mask, face

shield, or other face covering may not be warranted, including without limitation:

(A) Circumstances under which individuals are able to maintain an adequate physical distance from other individuals; and

(B) Instances in which an individual with a disability cannot wear a face mask, face shield, or other face covering or cannot safely wear a face mask, face shield, or other face covering:

(i) Because of a disability as defined by the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.; or

(ii) For another medical reason that is verified by a letter from the individual's physician.

(h) As used in this section, "face mask, face shield, or other face covering" means a form of personal protective equipment, including without limitation a covering of the nose and mouth in order to protect against infectious diseases.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the coronavirus 2019 (COVID-19) pandemic continues to pose a threat to the health of Arkansans; that public schools are starting the 2021-2022 school year this August, which will bring thousands of students, teachers, and staff together indoors on a daily basis; that the health and safety of Arkansas students, teachers, and staff are of utmost importance to the state; and that this act is immediately necessary to protect the health of students, faculty, and staff in the state and to mitigate the threat posed by the coronavirus 2019 (COVID-19) pandemic. 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.