

Stricken language would be deleted from and underlined language would be added to present law.

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

A Bill

Call Item 1
SENATE BILL 5

By: Senator J. Hendren

For An Act To Be Entitled

AN ACT CONCERNING THE AUTHORITY OF A SCHOOL BOARD OF A PUBLIC SCHOOL DISTRICT OR GOVERNING BODY OF AN OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL TO IMPLEMENT A REQUIREMENT FOR FACE MASKS, FACE SHIELDS, OR OTHER FACE COVERINGS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE AUTHORITY OF A SCHOOL BOARD OF A PUBLIC SCHOOL DISTRICT OR A GOVERNING BODY OF AN OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL TO IMPLEMENT A REQUIREMENT FOR FACE COVERINGS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 6, Chapter 1, Subchapter 1, is amended to add an additional section to read as follows:

6-1-108. School face covering policy.

(a) 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, contagious, and communicable diseases.

(b)(1) A school board of a public school district or a governing body of an open-enrollment public charter school may implement a requirement to wear a face mask, face shield, or other face covering to reduce the spread of



infectious, contagious, and communicable diseases.

(2) A requirement to wear a face mask, face shield, or other face covering shall only be implemented 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.

(c) A school board of a public school district or a governing body of an open-enrollment public charter school shall review and reconsider any requirement to wear a face mask, face shield, or other face covering every sixty (60) days.

SECTION 2. Arkansas Code § 20-7-144 is amended to read as follows:

20-7-144. Prohibition on mandatory use of face mask, face shield, or other face covering.

(a) 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, contagious, and communicable diseases.

~~(a)(b)~~ The General Assembly reserves the right to enact legislation regarding the mandatory use of face masks, face shields, or other face coverings.

~~(b)(c)~~ A state agency or entity, a political subdivision of the state, or a state or local official shall not mandate an individual in this state to use a face mask, face shield, or other face covering.

~~(e)(d)~~ The use of a face mask, face shield, or other face covering shall not be a condition for entry, education, or services.

~~(d)(e)~~ If a state agency or entity, a political subdivision of the state, or a state or local official recommends that an individual in this state use a face mask, face shield, or other face covering, a state agency or entity, a political subdivision of the state, or a state or local official shall provide notice that the recommendation is not mandatory.

~~(e)(f)~~ 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; or

(5) A school board of a public school district or governing body of an open-enrollment public charter school under § 6-1-108.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the rapid rise in the cases of coronavirus 2019 (COVID-19) poses a threat to the health and safety of children in this state who are under twelve (12) years of age; that the current prevailing variant of coronavirus 2019 (COVID-19), known as the Delta variant, is more contagious than previous strains of coronavirus 2019 (COVID-19); that currently, children under twelve (12) years of age are not eligible to receive a coronavirus 2019 (COVID-19) vaccine to protect against coronavirus 2019 (COVID-19); that the start of the school year is imminent; and that this act is immediately necessary to provide local school boards with flexibility to achieve maximum protection for children under twelve (12) years of age receiving in-person instruction. 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.