MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Eubanks

To: Education; Public Health and Human Services

HOUSE BILL NO. 475

AN ACT TO AMEND SECTIONS 41-23-37 AND 43-20-8, MISSISSIPPI CODE OF 1972, TO AUTHORIZE EXEMPTIONS FROM THE IMMUNIZATION REQUIREMENTS OF SCHOOLS AND LICENSED CHILD CARE FACILITIES WHEN A PARENT OR LEGAL GUARDIAN OBJECTS TO IMMUNIZATION OF THE CHILD ON THE GROUNDS THAT THE IMMUNIZATION CONFLICTS WITH THE RELIGIOUS BELIEFS OF THE PARENT OR GUARDIAN; TO PROVIDE THAT A PARENT OR GUARDIAN MUST FIRST FURNISH THE RESPONSIBLE OFFICIAL OF THE SCHOOL OR FACILITY AN AFFIDAVIT IN WHICH THE PARENT OR GUARDIAN SWEARS OR AFFIRMS THAT THE IMMUNIZATION REQUIRED CONFLICTS WITH THE RELIGIOUS BELIEFS OF THE PARENT OR GUARDIAN BEFORE A CHILD IS EXEMPTED FROM IMMUNIZATION ON RELIGIOUS GROUNDS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-23-37, Mississippi Code of 1972, is amended as follows:

41-23-37. (1) Whenever indicated, the State Health Officer shall specify such immunization practices as may be considered best for the control of vaccine preventable diseases. A listing shall be promulgated annually or more often, if necessary.

(2) Except as provided hereinafter, it shall be unlawful for any child to attend any school, kindergarten or similar type facility intended for the instruction of children (hereinafter called "schools"), either public or private, with the exception of

any legitimate home instruction program as defined in Section 37-13-91, Mississippi Code of 1972, for ten (10) or less children who are related within the third degree computed according to the civil law to the operator, unless they shall first have been vaccinated against those diseases specified by the State Health Officer.

(3) A certificate of exemption from vaccination for medical reasons may be offered on behalf of a child by a duly licensed physician and may be accepted by the local health officer when, in his opinion, such exemption will not cause undue risk to the community.

(4) Certificates of vaccination shall be issued by local health officers or physicians on forms specified by the Mississippi State Board of Health. These forms shall be the only acceptable means for showing compliance with these immunization requirements, and the responsible school officials shall file the form with the child's record.

(5) If a child shall offer to enroll at a school without having completed the required vaccinations, the local health officer may grant a period of time up to ninety (90) days for such completion when, in the opinion of the health officer, such delay will not cause undue risk to the child, the school or the community. No child shall be enrolled without having had at least one (1) dose of each specified vaccine.

(6) Within thirty (30) days after the opening of the fall term of school (on or before October 1 of each year) the person in charge of each school shall report to the county or local health officer, on forms provided by the Mississippi State Board of Health, the number of children enrolled by age or grade or both, the number fully vaccinated, the number in process of completing vaccination requirements, and the number exempt from vaccination by reason for such exemption.

Within one hundred twenty (120) days after the opening of the fall term (on or before December 31), the person in charge of each school shall certify to the local or county health officer that all children enrolled are in compliance with immunization requirements.

(7) For the purpose of assisting in supervising the immunization status of the children the local health officer, or his designee, may inspect the children's records or be furnished certificates of immunization compliance by the school.

(8) It shall be the responsibility of the person in charge of each school to enforce the requirements for immunization. Any child not in compliance at the end of ninety (90) days from the opening of the fall term must be suspended until in compliance, unless the health officer shall attribute the delay to lack of supply of vaccine or some other such factor clearly making compliance impossible.

(9) Failure to enforce provisions of this section shall constitute a misdemeanor and upon conviction be punishable by fine or imprisonment or both.

(10) The immunization requirements of this section shall not apply to a child whose parent or legal guardian objects to immunization of the child on the grounds that the immunization conflicts with the religious beliefs of the parent or guardian. For a child to be exempt from immunization on religious grounds, the parent or guardian must first furnish the responsible official of the school or facility an affidavit in which the parent or guardian swears or affirms that the immunization required conflicts with the religious beliefs of the parent or guardian.

SECTION 2. Section 43-20-8, Mississippi Code of 1972, is amended as follows:

43-20-8. (1) The licensing agency shall have powers and duties as set forth below, in addition to other duties prescribed under this chapter:

(a) Promulgate rules and regulations concerning the licensing and regulation of child care facilities as defined in Section 43-20-5;

(b) Have the authority to issue, deny, suspend, revoke, restrict or otherwise take disciplinary action against licensees as provided for in this chapter;

(c) Set and collect fees and penalties as provided for in this chapter; any increase in the fees charged by the licensing

agency under this paragraph shall be in accordance with the provisions of Section 41-3-65; and

(d) Have such other powers as may be required to carry out the provisions of this chapter.

(2) Child care facilities shall assure that parents have welcome access to the child care facility at all times and shall comply with the provisions of Chapter 520, Laws of 2006.

(3) Each child care facility shall develop and maintain a current list of contact persons for each child provided care by that facility. An agreement may be made between the child care facility and the child's parent, guardian or contact person at the time of registration to inform the parent, guardian or contact person if the child does not arrive at the facility within a reasonable time.

(4) Child care facilities shall require that, for any current or prospective caregiver, all criminal records, background and sex offender registry checks and current child abuse registry checks are obtained. In order to determine the applicant's suitability for employment, the applicant shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the FBI for a national criminal history record check.

(5) The licensing agency shall require to be performed a criminal records background check and a child abuse registry check for all operators of a child care facility and any person living

in a residence used for child care. The Department of Human Services shall have the authority to disclose to the State Department of Health any potential applicant whose name is listed on the Child Abuse Central Registry or has a pending administrative review. That information shall remain confidential by all parties. In order to determine the applicant's suitability for employment, the applicant shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the FBI for a national criminal history record check.

(6) The licensing agency shall have the authority to exclude a particular crime or crimes or a substantiated finding of child abuse and/or neglect as disqualifying individuals or entities for prospective or current employment or licensure.

(7) The licensing agency and its agents, officers, employees, attorneys and representatives shall not be held civilly liable for any findings, recommendations or actions taken under this section.

(8) All fees incurred in compliance with this section shall be borne by the child care facility. The licensing agency is authorized to charge a fee that includes the amount required by the Federal Bureau of Investigation for the national criminal history record check in compliance with the Child Protection Act of 1993, as amended, and any necessary costs incurred by the

licensing agency for the handling and administration of the criminal history background checks.

(9) (a) From and after January 1, 2008, the State Board of Health shall develop regulations to ensure that all children enrolled or enrolling in a state licensed child care center receive age-appropriate immunization against invasive pneumococcal disease as recommended by the Advisory Committee on immunization practices of the Centers for Disease Control and Prevention. The State Board of Health shall include, within its regulations, protocols for children under the age of twenty-four (24) months to catch up on missed doses. If the State Board of Health has adopted regulations before January 1, 2008, that would otherwise meet the requirements of this subsection, then this subsection shall stand repealed on January 1, 2008.

(b) The immunization requirements of this subsection shall not apply to a child whose parent or legal guardian objects to immunization of the child on the grounds that the immunization conflicts with the religious beliefs of the parent or guardian. For a child to be exempt from immunization on religious grounds, the parent or guardian must first furnish the responsible official of the school or facility an affidavit in which the parent or guardian swears or affirms that the immunization required conflicts with the religious beliefs of the parent or guardian.

SECTION 3. This act shall take effect and be in force from and after July 1, 2021.