

HB0221S03 compared with HB0221

~~text~~ shows text that was in HB0221 but was deleted in HB0221S03.

inserted text shows text that was not in HB0221 but was inserted into HB0221S03.

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Representative Paul Ray proposes the following substitute bill:

IMMUNIZATION OF STUDENTS AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to immunization requirements for students.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends requirements for a student seeking an immunization exemption;
- ▶ requires the Department of Health to:
 - develop an immunization exemption form;
 - develop an education module; and
 - make rules;
- ▶ requires a local health department to issue an immunization exemption form under certain conditions;

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- ▶ requires an individual to ~~{complete}~~ present a certificate of completion for an education module as a condition for receiving an ~~{immunization exemption form;~~
- ▶ ~~requires an individual to renew an immunization exemption annually at the individual's}~~ exemption from required immunizations;
- ▶ enacts renewal requirements for an exemption from immunization;
- ▶ amends requirements for transferring a student's exemption from required immunizations to a new school;
- ▶ requires a school to maintain a list of students who have not received required immunizations;
- ▶ amends provisions related to a conditional enrollment; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-1-17.5, as last amended by Laws of Utah 2008, Chapter 382

53A-11-303, as enacted by Laws of Utah 1988, Chapter 2

53A-11-304, as enacted by Laws of Utah 1988, Chapter 2

ENACTS:

53A-11-300.5, Utah Code Annotated 1953

REPEALS AND REENACTS:

53A-11-301, as last amended by Laws of Utah 1992, Chapter 53

53A-11-302, as last amended by Laws of Utah 2010, Chapter 395

~~{53A-11-303}~~ 53A-11-302.5, as enacted by Laws of Utah ~~{1988}~~ 1992, Chapter ~~{2}~~ 129

~~{~~ 53A-11-304, as enacted by Laws of Utah 1988, Chapter 2

~~}~~ 53A-11-306, as enacted by Laws of Utah 1988, Chapter 2

~~{~~ ENACTS:

~~53A-11-300.5, Utah Code Annotated 1953~~

~~REPEALS AND REENACTS:~~

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~~53A-11-302.5, as enacted by Laws of Utah 1992, Chapter 129~~

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-1-17.5** is amended to read:

26-1-17.5. Confidential records.

(1) A record classified as confidential under this title shall remain confidential, and be released according to the provisions of this title, notwithstanding Section 63G-2-310.

(2) In addition to those persons granted access to ~~[records]~~ a private record described in Subsection 63G-2-302(1)(b), immunization records may be shared among schools, school districts, and local and state health departments and the state Department of Human Services as necessary to ~~[assure]~~ ensure compliance with ~~[Section 53A-11-301]~~ Title 53A, Chapter 11, Part 3, Immunization of Students, and to prevent, investigate, and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health.

Section 2. Section **53A-11-300.5** is enacted to read:

53A-11-300.5. Definitions.

As used in this part:

(1) "Certificate of immunization" means:

(a) a certification stating that a student received each required immunization, including the date each immunization was administered, issued by:

(i) a licensed health care provider;

(ii) an authorized representative of a local health department; or

(iii) an authorized representative of the department; or

(b) verification from the department, through a central database, that a student has received each required immunization, including the date each immunization was administered.

(2) "Department" means the Department of Health, created in Section 26-1-4.

(3) "Immunization exemption form" means a form, described in Section 53A-11-302.5, that exempts a student from one or more required immunizations.

(4) "Local ~~{Education Agency}~~ **education agency**" or "LEA" means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

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(5) "Required immunizations" means immunizations against communicable diseases required by department rule described in Section 53A-11-303.

(6) "School" means:

(a) center-based child care, as defined in Section 26-39-102;

(b) a public school, as defined in Section 26-39-102;

(c) residential child care, as defined in Section 26-39-102; or

(d) a private school that:

(i) is not primarily funded at public expense; and

(ii) provides education to students in any grade from kindergarten through grade 12.

(7) "Student" means an individual who attends a school.

Section 3. Section 53A-11-301 is ~~{amended}~~ repealed and reenacted to read:

53A-11-301. ~~{Certificate}~~ Certificate of immunization required -- Exceptions--

Weighted ~~{Pupil Unit}~~ pupil unit funding.

(1) ~~{(a) [Unless exempted for personal, medical, or religious objections as provided in Section 53A-11-302,]} (a)~~ Except as provided in Subsection (1)(b), a student may not attend a ~~{[public, private, or parochial kindergarten, elementary, or secondary school through grade 12, nursery school, licensed day care center, child care facility, family care home, or headstart program in this state]} school~~ school unless there is presented to the appropriate official of the school a certificate of immunization ~~{[from a licensed physician or authorized representative of the state or local health department stating that the student has received immunization against communicable diseases as required by rules adopted under Section 53A-11-303]} }~~ for the student. ~~{.}~~

(b) A student who does not present a certificate of immunization may attend a school if the student:

(i) is exempt as described in Section 53A-11-302;

(ii) qualifies for conditional enrollment under Section 53A-11-306; or

(iii) meets:

(A) the definition of a student under Section 53A-1-1001; and

(B) the immunization requirements for military children under Section 53A-1-1001.

(2) ~~{[school districts]} }~~ An LEA may not receive weighted pupil unit money for a student unless the student ~~{[has obtained]} }~~:

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(a) presents a certificate of immunization~~{ under this section or qualifies for conditional enrollment or an exemption from immunization under Section 53A-11-302.}; or~~

(b) is allowed to attend school without presenting a certificate of immunization as described in Subsection (1)(b).

Section 4. Section 53A-11-302 is ~~{amended}~~repealed and reenacted to read:

53A-11-302.~~{ Exemption}~~ **Exemption** from required immunizations.

~~{{(1) A student may not enter school without a certificate of immunization, except as provided in this section.}}~~

~~———{(2) Except as provided in Section 53A-1-1001, a student who at the time of school enrollment has not been completely immunized against each specified disease may attend school under a conditional enrollment if the student has received one dose of each specified vaccine prior to enrollment.}}~~

~~———{(3)} }~~A student is exempt from receiving ~~{the}~~required immunizations~~{required immunizations if there is presented}~~ if, subject to the renewal requirement described in Section 53A-11-302.5, the student's parent or legal guardian presents to the appropriate official of the student's school~~{ one or more of the following}}~~:

~~{{(a)}} }~~(1) for an exemption for a medical reason~~{, at the beginning of each school year that a student is exempt}~~:

(a) a certificate from a licensed ~~{physician}~~ health care provider stating that due to the physical condition of the student~~{ one or more specified immunizations}}~~, a required immunization would endanger the student's life or health; and

(b) a certificate of completion for the online education module described in Section 53A-11-302.5; or

~~{ ———{(b) A completed form obtained at the local health department where the student resides, providing:}}~~

~~———{(i) the information required under Subsection 53A-11-302.5(1); and}}~~

~~———{(ii) a statement that the person has a personal belief opposed to immunizations, which is signed by one of the individuals listed in Subsection 53A-11-302(3)(c) and witnessed by the local health officer or his designee; or}}~~

~~———{(c) a statement that the person is a bona fide member of a specified, recognized religious organization whose teachings are contrary to immunizations, signed by one of the~~

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~~following persons:}~~

~~—— [(i) one of the student's parents;}~~

~~—— [(ii) the student's guardian;}~~

~~—— [(iii) a legal age brother or sister of a student who has no parent or guardian; or}~~

~~—— [(iv) the student, if of legal age.}~~

‡ (2) for an exemption for a personal or religious belief:

(a) ~~{for the first year a student intends to receive an exemption, }~~ an immunization exemption form described in Section 53A-11-302.5; ~~for}~~ **and**

(b) ~~{for a year other than the first year that a student receives an exemption, }~~ a certificate of completion for the online education module described in Section 53A-11-302.5.

Section 5. Section **53A-11-302.5** is repealed and reenacted to read:

53A-11-302.5. ~~{**Immunization}**}~~ **Immunization** exemption form -- **Online education module -- ~~{Annual}~~ **Renewal** requirement.**

(1) The department shall:

(a) develop an immunization exemption form that:

(i) specifies if an exemption is for a personal or religious belief;

(ii) certifies that the individual who signs the form has completed the online education module described in Subsection (2);

(iii) indicates that a student who has an immunization exemption ~~{form}~~ is required to renew the exemption ~~{each year}~~ at the student's school ~~{,}~~ **when the student:**

(A) enters grade 7; and

(B) enters grade 10;

(iv) states the department's position regarding the benefits of immunization;

(v) states requirements for a student who has not received required immunizations, in the event of an outbreak of a vaccine preventable illness;

(vi) includes a statement claiming exemption from one or more required immunizations, signed by:

(A) a student's parent or legal guardian;

(B) for a student who does not have a parent or legal guardian, the student's sibling of legal age; or

(C) for a student 18 years of age or older, the student;

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(vii) includes the name and address of the individual who signs the form;

(viii) includes the name of the student claiming exemption from one or more required immunizations; and

(ix) includes name of the school the student attends at the time the form is signed; and

(b) provide the immunization exemption form to each local health department to distribute.

(2) (a) The department shall develop an online education module that is no longer than 20 minutes and includes:

(i) information about vaccine preventable illnesses;

(ii) recommendations to reduce the likelihood of an unvaccinated individual contracting or transmitting a vaccine preventable illness;

(iii) information, based on the best available science, about ~~vaccine benefits and side effects~~ vaccines;

(iv) interactive questions or activities; and

(v) for an individual who completes the module, a certificate of completion.

(b) In developing the online education module, the department shall consult with individuals interested in vaccination requirements, including individuals from organizations for health care professionals.

(3) (a) A local health department shall provide an immunization exemption form to an individual who:

(i) requests an immunization exemption form for a student;

(ii) is an individual described in Subsection (1)(a)(vi); and

(iii) presents a certificate of completion for the online education module described in Subsection (2).

(b) A local health department may not issue an immunization exemption form to an individual who does not present a certificate of completion for the online education module described in Subsection (2).

(c) An individual who is eligible to sign an immunization exemption form for multiple students may present a single certificate of completion described in Subsection (2) to receive an immunization exemption form for each student.

(4) (a) ~~An immunization exemption form accepted by a school is valid for one full~~

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school year.

~~_____ (b) In a year after the first year that a school accepts an immunization exemption form for a student, in~~ A student's exemption from required immunizations is subject to the renewal requirements described in Subsection (4)(b).

(b) In order to renew ~~the exemption, the student's parent or legal guardian~~ an exemption from required immunizations, when a student with an exemption from required immunizations enters grade 7, and again when the student enters grade 10, an individual described in Subsection (1)(a)(vi) shall:

(i) complete the online education module described in Subsection (2); and

(ii) present ~~the~~ a certificate of completion ~~described in Subsection (2)~~ for the online education module directly to the student's school.

(c) An LEA may not charge a fee to renew an immunization exemption form.

(d) A student who is exempt from immunization requirements and transfers to or enrolls in a different school may ~~renew the exemption at the new school, as~~, subject to the renewal requirements described in Subsection (4)(b), transfer the student's exemption from required immunizations if the student's previous school confirms that the student has an exemption from ~~immunization~~ required immunizations.

(5) A student who has an immunization exemption for ~~a personal or religious belief for~~ the 2016-2017 school year or earlier:

(a) is not required to obtain a new immunization exemption form from a local health department; and

(b) shall renew the exemption ~~each year~~ at the beginning of the student's grade 7 year and again at the beginning of the student's grade 10 year, as described in Subsection (4)(b).

Section 6. Section 53A-11-303 is amended to read:

53A-11-303. Department of Health regulations.

(1) [~~The Department of Health~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall [~~adopt~~] make rules to establish:

(a) which immunizations are required [and] as a condition for attending school; ~~and~~

(b) the manner and frequency of [~~their~~] the administration[:] of required immunizations; ~~and~~

(c) the immunization exemption form described in Section 53A-11-302.5;

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(d) the online education module described in Section 53A-11-302.5; and

(e) the requirements for a conditional enrollment described in Section 53A-11-306.

(2) The rules ~~[adopted]~~ made under Subsection (1) shall:

(a) conform to recognized standard medical practices~~[-]; and~~

~~[(3) The rules shall]~~

(b) require ~~[the reporting of]~~ a school to report statistical information and names of ~~[noncompliers by the schools]~~ students who are not in compliance with Section 53A-11-301 to the department.

~~{ (3) The department may make rules to implement:~~

~~— (a) the immunization exemption form described in Section 53A-11-302.5;~~

~~— (b) the online education module described in Section 53A-11-302.5; or~~

~~— (c) the requirements for a conditional enrollment described in Section 53A-11-306.~~

‡ Section 7. Section **53A-11-304** is amended to read:

53A-11-304. Certificate part of student's record -- Forms for certificates --

Recording of immunization record as official certificate -- School record of noncertificate holders.

(1) ~~[Each]~~ A school shall retain an official ~~[certificates]~~ certificate of immunization for ~~[every]~~ an enrolled student~~[-The certificate becomes a]~~ that is part of the ~~[individual]~~ student's permanent school record ~~[and follows the student through his or her public or private school career].~~

(2) The ~~[Department of Health shall provide official certificate of immunization forms to public and private]~~ department shall create an immunization form and distribute the immunization form to schools, ~~[physicians]~~ health care providers, and local health departments. ~~[The forms referred to in this subsection shall include a clear statement of the student's rights under Section 53A-11-302.]~~

~~[(3) Any immunization record provided by a licensed physician, registered nurse, or public health official may be accepted by a school official as a certificate of immunization if the type of immunization given and the dates given are specified and the]~~

(3) (a) A school shall record the information ~~[is transferred to]~~ on a certificate of immunization as an official certificate of immunization ~~[and verified by the school district in which the public or private school is located].~~

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(b) A school shall verify the information on a certificate of immunization.

(4) (a) At the beginning of each school year, a school shall create a list of students who do not have an official certificate of immunization, noting if a student on the list is allowed to attend school without presenting a certificate of immunization, under Section 53A-11-301.

(b) A school shall provide the list of students described in Subsection (4)(a) to the principal or other school director each year.

(c) A name appearing on the list described in Subsection (4)(a) is subject to confidentiality requirements described in Section 26-1-17.5 and Section 53A-13-301.

Section 8. Section **53A-11-306** is ~~{amended}~~ repealed and reenacted to read:

53A-11-306. ~~{ Conditional}~~ Conditional enrollment -- Suspension for noncompliance -- Procedure.

~~{ (1) Conditional enrollment time periods may be modified by the department by legally adopted rules. }~~

~~{~~ (1) (a) A student who has not received ~~{the}~~ one or more required immunizations may attend school on a conditional enrollment:

~~{a}~~ (i) if the student has received a dose of each required vaccine, but is not due for the next dose of the vaccine under department rule described in Section 53A-11-303; or

(ii) except as provided in Subsection (1)(b) ~~{,}~~, for up to 21 calendar days after ~~{~~ (i) ~~{~~ the first day of school ~~{ for a}~~.

(b) A student who enrolls in a school ~~{before October 1, or~~

~~{~~ (ii) ~~{~~ on or after the twenty-second calendar day after the first day of school may attend school on a conditional enrollment for up to 21 calendar days after the day on which the student enrolls in ~~{a school for a student who enrolls on or after October 1.~~

~~{(2) The requirements for conditional enrollment shall apply to each student unless that student is exempted under Section 53A-11-302. ~~{}~~ the school.~~

(2) (a) After the conditional enrollment period, a school shall prohibit further attendance of a student who does not comply with Section 53A-11-301.

~~{(3)}~~ (b) After five days of a student's conditional enrollment ~~{ described in this section}, a school shall mail written notice ~~{of a pending suspension and of the student's rights under Section 53A-11-302 shall be mailed}~~ to the student's parent, legal guardian, or, if the student does not have a parent or legal guardian, the student's legal age sibling that:~~

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(i) the student will be suspended at the end of the conditional enrollment if the student is not in compliance with Section 53A-11-301; and

(ii) describes the process for obtaining the required immunizations or an ~~immunization~~ exemption ~~form to the last-known address of [a] the student's:~~

~~—— (A) parent[,];~~

~~—— (B) legal guardian[,]; or~~

~~—— (C) [or] legal age [brother or sister of] sibling for a student who [is without] does not have a parent or legal guardian[, the governing authority of any school shall prohibit further attendance by a student under a conditional enrollment who has failed to obtain the immunization required within time period set forth in Section 53A-11-302 or otherwise established by rule];~~

~~—— [(4)] (3) [Parents] A parent or [guardians] legal guardian of [children who are] } from the required immunizations.~~

(3) A parent or legal guardian of a student who is prohibited from attending school for failure to comply with the provisions of this part shall be referred to the juvenile court.

Section 9. **Effective date.**

This bill takes effect on July 1, 2017.

†

Legislative Review Note

Office of Legislative Research and General Counsel†