

LEGAL UPDATES

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# 50-State Update on Pending Legislation Pertaining to Employer-Mandated Vaccinations as of July 1, 2021

Under federal guidance, private employers can generally require employees to get vaccinated COVID-19, and private businesses can permit entry and service only to vaccinated individuals, as long as they comply with federal laws that prohibit discrimination on the basis of religion and disability.

However, given the increasing availability of the COVID-19 vaccine, many states are considering or have enacted legislation that would prohibit employers from mandating vaccinations or prohibit businesses from requiring proof of vaccine status.

The proposed legislation varies widely by state in terms of who would be shielded from mandatory vaccinations and under what circumstances. Some legislation would prohibit employer-mandated vaccinations outright, some would permit mandated vaccinations only for employees who work in a healthcare facility or with medically vulnerable populations, and some would expand the federally-recognized religious exemption to include philosophical objections or objections of the conscience. Nearly every bill pertaining to the rights of current or prospective employees prohibits employers from making vaccination a condition of employment or taking adverse actions based on an employee's COVID-19 vaccination status.

There is variance among states on whether private businesses may deny entry to individuals who do not have proof of vaccination, with some states expressly stating that a business may require proof of vaccination, with other states prohibiting businesses from requiring proof of vaccination.

Under some proposed legislation, businesses, employers and individuals found in violation may be subject to steep fines; civil liability, often including attorneys' fees; and in some circumstances, even criminal liability and imprisonment.

Please click on the state you are interested in to view state-specific information:

<a href="#">Alabama</a>	<a href="#">Illinois</a>	<a href="#">Montana</a>	<a href="#">Rhode Island</a>
<a href="#">Alaska</a>	<a href="#">Indiana</a>	<a href="#">Nebraska</a>	<a href="#">South Carolina</a>
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<a href="#">California</a>	<a href="#">Kentucky</a>	<a href="#">New Jersey</a>	<a href="#">Texas</a>
<a href="#">Colorado</a>	<a href="#">Louisiana</a>	<a href="#">New Mexico</a>	<a href="#">Utah</a>
<a href="#">Connecticut</a>	<a href="#">Maine</a>	<a href="#">New York</a>	<a href="#">Vermont</a>
<a href="#">Delaware</a>	<a href="#">Maryland</a>	<a href="#">North Carolina</a>	<a href="#">Virginia</a>
<a href="#">Dist. of Col.</a>	<a href="#">Massachusetts</a>	<a href="#">North Dakota</a>	<a href="#">Washington</a>
<a href="#">Florida</a>	<a href="#">Michigan</a>	<a href="#">Ohio</a>	<a href="#">West Virginia</a>
<a href="#">Georgia</a>	<a href="#">Minnesota</a>	<a href="#">Oklahoma</a>	<a href="#">Wisconsin</a>
<a href="#">Hawaii</a>	<a href="#">Mississippi</a>	<a href="#">Oregon</a>	<a href="#">Wyoming</a>
<a href="#">Idaho</a>	<a href="#">Missouri</a>	<a href="#">Pennsylvania</a>	

## **Alabama**

### **(Signed into Law):**

Senate Bill 267 prohibits local and state government entities from issuing vaccine passports or requiring an individual to receive an immunization as a condition for receiving government benefits or services. The Bill also does not allow private businesses to refuse goods or services or deny persons admission because of their immunization status or lack of documentation of immunization. The Bill permits educational institutions to continue to require students to receive vaccinations that were required by the institution as of January 1, 2021, provided there is a medical and religious belief exemption. The Bill was signed into law on May 17, 2021 and assigned Act No. 2021-493.

## **(Pending Legislation):**

Senate Bill 97 would prohibit the Governor and the State Health Officer, during a state of emergency, from ordering the vaccination of individuals who assert a bona fide medical condition, religious belief, or sincerely held personal belief preventing vaccine administration. The Bill would also repeal an Alabama law that sets forth a system for compulsory vaccination by cities and towns. On May 17, 2021 the House Committee on Health offered a substitute, and the Bill underwent a third reading in the House.

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## **Alaska**

### **(Signed into Law):**

Administrative Order 321 states that “the Executive Branch does not, and will not, require any person to produce their personal vaccine history, also referred to as a ‘Vaccine Passport,’ in order to travel to, or around, Alaska.” The Order took effect on April 26, 2021.

### **(Pending Legislation):**

Senate Bill 56 would permit individuals to object to vaccination on religious, medical, or other grounds. Such individuals cannot be required to provide justification or documentation to support their decision to object to vaccinations. As of February 12, 2021, the Bill remains in the Finance Committee.

House Bill 175 would prohibit businesses and other entities from requiring an individual to be vaccinated against COVID-19 or prove that they have been vaccinated to access public areas or services. The Bill would also prohibit employers from (i) requiring employees or applicants to undergo or prove receipt of vaccination as a condition of employment and (ii) discriminating against employees or applicants with regard to tenure, compensation, benefits, and other terms and conditions of employment for refusal to undergo or prove receipt of vaccination. Under the Bill, employees and applicants may refuse vaccination if it is medically suggested or would be contrary to their sincerely held religious beliefs. The Bill was referred to the Community and Regional Affairs Committee and the Labor and Commerce Committee on April 14, 2021.

House Bill 186 prohibits “the state or a municipality, public library, postsecondary educational institution, school district, health care provider, or health care facility from requiring proof of vaccination against COVID-19.” The Bill was referred to the Committee on Community and Regional Affairs on April 21, 2021.

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## Arizona

### **(Signed into Law)**

Executive Order 2021-09 prevents state and local governments from requiring individuals to provide their COVID-19 vaccination status in order to receive a service or enter an area. The Order took effect on April 19, 2021.

### **(Pending Legislation):**

Senate Bill 1648 would prohibit individuals and entities from requiring persons to take, be administered, receive, or disclose whether they have received a COVID-19 vaccine as a condition of (i) employment, (ii) entry into a public space, or (iii) receipt of goods or services. Under the Bill, public spaces include: (a) spaces of public accommodation, (b) indoor or outdoor buildings, (c) spaces owned, leased, operated, occupied or otherwise used by a public body, and (d) indoor or outdoor buildings or spaces that are generally open to the public. The Bill was referred to the Committees on Commerce and Rules on February 3, 2021.

House Bill 2423 would provide an exemption for any person who is required to receive an immunization for any purpose—“including as a condition of employment, school attendance or obtaining any license, certification or degree”—if the immunization has received only emergency use authorization and lacks full approval from the FDA. The Bill underwent a second reading on January 27, 2021.

House Bill 2190 would prohibit businesses from requiring persons to disclose whether they have received a COVID-19 vaccine as a condition for receiving any service, product, or admission to an event or venue. The Senate motioned to reconsider the Bill on May 24, 2021.

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## Arkansas

### **(Signed into Law):**

House Bill 1547 prohibits (i) the state, (ii) state agencies and entities, (iii) political subdivisions of the state, and (iv) state and local officials from requiring an individual to receive an immunization or vaccine against COVID-19. Such agencies or entities cannot mandate vaccination as a condition of (a) education, (b) employment, (c) entry, (d) receipt of services, or (e) issuance of a license, certificate or permit. Further, such agencies or entities may not discriminate against or coerce individuals who refuse a COVID-19 vaccine by withholding opportunities for career advancement, wage increases, or insurance discounts. State-owned or state-controlled medical facilities are not prohibited from offering incentives to those who do receive a COVID-19 vaccine but are required to obtain approval

from the Legislative Council in order to mandate that individuals receive a COVID-19 vaccine. The Bill was signed into law on April 28, 2021 and took effect immediately.

Senate Bill 615 prohibits state and local authorities from requiring vaccine passports for any purpose, including entry, travel, education, or receipt of services. Under the Act, “a vaccine passport” refers to documentation that an individual has been vaccinated against COVID-19. The Bill was signed into law on April 29, 2021 and will take effect on July 27, 2021.

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### **California**

#### **(Pending Legislation):**

Assembly Bill 327 would prohibit any public or private entity that “receives or is awarded state funding through any means” from requiring individuals to provide documentation regarding their COVID-19 vaccination status as a condition of receiving any service or entering any place. Similarly, the Bill prohibits state agencies, local governments, and governmental authorities from requiring individuals to provide proof of vaccination as a condition of service or entry. The Bill specifically pertains to vaccination status for any COVID-19 vaccine administered under an emergency use authorization. The Bill was re-referred to the Committee on Health and the Privacy and Consumer Protection on April 15, 2021.

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### **Colorado**

Colorado’s relevant pending legislation died in committee.

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### **Connecticut**

#### **(Signed into Law):**

House Bill 6423 repealed the religious exemptions for required immunization for students Pre-K through 12th grade and children in daycare settings. The Bill was signed into law on April 28, 2021 and took effect immediately.

On June 24, 2021, the Connecticut Board of Regents for Higher Education voted to require that all students (not staff members) who participate in on-campus activities at Connecticut State Colleges and Universities be fully vaccinated. Students may request vaccine exemptions for medical and non-medical reasons. The decision will take effect in the Fall of 2021.

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## **Delaware**

### **(Pending Legislation):**

Senate Bill 58 would remove the state's authority to forcibly isolate, quarantine, vaccinate, or treat individuals against their will during a state of emergency related to COVID-19. The Bill was assigned to the Executive Committee on February 12, 2021 and is currently awaiting consideration in Committee.

House Bill 209 would make all vaccinations against COVID-19 voluntary. Under the Bill, individuals could not be required to receive a vaccination and no services or benefits could be denied to persons who refuse to be vaccinated. The Bill was introduced and assigned to the House Administration Committee on June 3, 2021.

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## **District of Columbia**

### **(Signed into Law):**

D.C. Act 23-384 prevents employers from taking adverse actions against employees who (i) refuse to service customers or clients who are not complying with certain workplace protections, (ii) have tested positive for COVID-19, (iii) have been exposed to or are caring for someone with COVID-19, or (iv) are sick and awaiting COVID-19 test results. Additionally, under the Act employers cannot take adverse actions against employees who attempt to exercise any right under the Act. Employers can prohibit employees who have tested positive for COVID-19 from entering the workplace until they have been cleared by a medical professional or the requisite quarantine period has ended. The Act was signed into law on August 13, 2020 and took effect immediately.

Mayor's Order 2021-066 allows businesses and other institutions to request an individual present a vaccination card or other proof of vaccination, as consistent with all other federal or local laws. However, no business or other institution may deny unvaccinated persons admission, registration, or employment if the choice to abstain from vaccination was made due to either medical reasons or sincerely held religious beliefs. The Order took effect on May 1, 2021 and was extended via Mayor's Order 2021-69 on May 17, 2021.

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## **Florida**

## **(Signed into Law):**

Executive Order Number 21-81 prohibits businesses from requiring patrons or customer to present vaccine passports or other forms of documentation certifying vaccination or post-transmission recovery as a condition of entry. The Order took effect on April 2, 2021.

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## **Georgia**

### **(Signed into Law):**

Executive Order 05.25.21.01 prohibits state agencies from imposing different rules or requirements on employees without proof of vaccination. The Order further prohibits Georgia Registry of Immunization Transactions from being shared with private entities for the purpose of prohibiting access to employment. The Order took effect on May 25, 2021.

### **(Pending Legislation):**

House Bill 413 would prohibit the state and local governments from requiring persons to submit to vaccination against COVID-19 for any reason, including as a condition of (i) employment, (ii) school attendance, (iii) professional licensure, (iv) educational certification or degree, (v) admittance to any place of business or entertainment, or (vi) access to any mode of transportation. The Bill permits mandatory vaccination if certain requirements are met (for example, if the vaccine has received FDA approval beyond emergency use authorization and undergone long-term clinical trials), but it provides an exemption for individuals who object in writing that vaccination conflicts with their philosophical beliefs. A second reading of the Bill occurred on February 17, 2021.

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## **Hawaii**

### **(Pending Legislation):**

House Resolution 123 and House Concurrent Resolution 146 request that the Civil Rights Commission declare that it does not support any person or entity treating an individual differently from others based on their COVID-19 vaccination status or immunity test results. The Resolutions also state that no entity in the state should discriminate against individuals based on their vaccination or immunity status in the following ways: (i) provision of services, financial aid, or benefits, (ii) segregation or separate treatment, (iii) restriction of enjoyment of any advantage or privilege, (iv) denial of opportunities, or (v) determination of admission, enrollment, quota, eligibility, or

membership. The Resolutions were referred to the House Pandemic and Disaster Preparedness Committee on March 15, 2021.

House Bill 241 would amend a statute governing discriminatory practices in employment to prohibit certain discriminatory practices based on an individual's test or vaccination status. Under the Bill, vaccinations would fall within the definition of an "invasive medical test" because they require "puncturing or incising an individual's skin or inserting a foreign material into an individual's body." The Bill was referred to the Committees on Judiciary & Hawaiian Affairs, Labor & Tourism, and Finance on January 27, 2021.

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### **Idaho**

#### **(Signed into Law):**

Executive Order No. 2021-04 prevents entities and state officials from producing or issuing COVID-19 vaccine passports or requiring proof of receipt of a COVID-19 vaccine to access state services or facilities. The Order took effect on April 7, 2021.

#### **(Pending Legislation):**

House Bill 63 would protect individuals from forced or coerced vaccination and prohibit vaccination mandates throughout the state. Under the Bill, no person can be vaccinated without their express consent. The Bill was referred to the Ways and Means Committee on February 1, 2021.

House Bill 140 would prevent the state and any political subdivision in the state from entering into a contract with "an employer or company that engages in discrimination against unvaccinated persons." Discrimination against unvaccinated persons is defined as "maintaining a policy of subjecting any employee to termination or refusal to hire, failure to promote, reassignment with significantly different responsibilities, a reduction in pay, or a significant change in benefits" based on an employee's vaccination status. The Bill would also prohibit any employer or company already contracting with the state from discriminating against unvaccinated employees or potential employees. In order to be protected under the Bill, the employee or potential employee refusing vaccination must do so on the grounds of a medical contraindication, or for reasons of conscience, including religious or philosophical beliefs. The Bill passed the House on February 23, 2021 and was sent to the Senate for consideration.

House Bill 443 would prohibit any employer or company, that has entered into a contract with the State, from discharging, refusing to hire, or taking any action directly or indirectly related to employment on the basis of an employee's refusal to be vaccinated due to medical contraindications

or reasons of conscience. Such reasons of conscience include religious or philosophical beliefs. The Bill was referred to the Committee on Commerce & Human Resources on February 7, 2021.

House Bill 301 would impose liability on employers that require employees to receive an immunization as a condition of employment for damages or injury arising from the immunization. The Bill was referred to the Committee on Commerce & Human Resources on March 8, 2021.

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### **Illinois**

#### **(Pending Legislation):**

House Bill 3682, the Workplace Vaccination Program Limitation Act, would prohibit employers from creating, implementing, or enforcing a workplace vaccination program. Such prohibited programs require any employee to demonstrate, as a condition of employment, that they have received a COVID-19 vaccine that has only been granted emergency use authorization and lacks full approval from the FDA. The Bill was re-referred to the Rules Committee on March 27, 2021.

Senate Bill 2015 would require employees at certain facilities and departments to receive a COVID-19 vaccine, if offered. These facilities include: (i) veterans' homes, (ii) nursing homes, (iii) the intensive care unit of the University of Illinois Hospital, and (iv) the intensive care units of hospitals licensed under the Hospital Licensing Act. The Bill was referred to the Assignments Committee on February 26, 2021.

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### **Indiana**

#### **(Signed into Law):**

House Bill 1405 “prohibits the state or a local unit from issuing or requiring a COVID-19 ‘immunization passport.’” The Bill was signed into law on April 29, 2021 and will take effect on July 1, 2021.

#### **(Pending Legislation):**

Senate Bill 74 would prohibit employers from requiring, as a condition of employment, current or prospective employees to receive any immunization if it is medically contraindicated or against their religious beliefs or conscience. The Bill further prohibits discrimination against any employee with respect to (i) tenure, (ii) compensation, (iii) benefits, or (iv) terms, conditions, and privileges of employment for failing to receive an immunization. Current or prospective employees can bring a civil

action against employers in pursuit of actual and punitive damages, court costs, and attorney's fees, or an injunction to enforce the provisions of the Bill. The Bill was referred to the Committee on Pensions and Labor on January 4, 2021.

House Bill 1488 would prohibit employers from requiring, as a condition of employment, that current or prospective employees receive immunizations that have only been granted emergency use authorization and that lack full approval from the FDA. The Bill would further prohibit employers from discriminating against employees who refuse immunization and from inquiring about or requiring employees to disclose the reason(s) for refusing immunization. Current or prospective employees can bring a civil action against employers in pursuit of actual and punitive damages, court costs, and attorney's fees, or an injunction to enforce the provisions of the Bill. The Bill was referred to the Committee on Judiciary on March 16, 2021.

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### **Iowa**

#### **(Pending Legislation):**

House File 330, and similar Senate File 555, would prohibit employers from refusing to hire, discharging, penalizing, or otherwise discriminating against employees with respect to compensation or the terms, conditions, or privileges of employment based on vaccination status or failure to provide proof of immunity. The protections would allow employees to decline vaccination for any reason. Employees whose rights were violated could seek (i) injunctive relief, (ii) actual damages, (iii) admission, (iv) reinstatement with back pay plus 10% interest, or (v) any other appropriate relief. House File 330 was referred to the Human Resources Committee on February 2, 2021, and Senate File 555 was referred to the Human Resources Committee on April 1, 2021.

House File 217 would amend the current statute for exemptions from required immunizations and vaccinations to add an exemption for persons (or parents/guardians of persons) enrolled in elementary schools, secondary schools, or licensed childcare centers. To qualify under this exemption, the person or parent/guardian must submit a signed affidavit stating immunization conflicts with their beliefs. The Bill was referred to the Human Resources Committee on January 25, 2021.

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### **Kansas**

#### **(Pending Legislation):**

Senate Bill 213 would prohibit employers from taking adverse actions against employees who refuse to get a COVID-19 vaccine. An adverse action is an ultimate employment decision involving (i) hiring,

(ii) firing, (iii) compensation, (iv) benefits (including leave), or (v) promotions. The Bill would impose a \$1,000 fine on employers for violations. The Bill was referred to the Committee on Commerce on March 5, 2021.

House Concurrent Resolution 5017 would create a COVID-19 Vaccine Bill of Rights that would (i) prevent employers from asking physicians or nurses to promote a COVID-19 vaccine and (ii) prohibit individuals from being forced or pressured to take an experimental or “investigational” medication, including by private businesses. The Resolution also states that interstate carriers (such as airlines and all other forms of public transportation) would be prohibited from requiring vaccine passports as a condition of entry into the state. The Resolution was referred to the Committee on Judiciary on March 16, 2021.

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## **Kentucky**

### **(Signed into Law):**

Senate Bill 8 provides exemptions from mandatory immunization for any child, emancipated minor, or adult who, personally or by a parent or guardian, submits a written sworn statement objecting to immunization based on conscientiously held beliefs. In addition, the Bill would prohibit any administrative regulation, administrative order or executive order from requiring immunization during an epidemic if a person submits either a written sworn statement objecting to immunization based on conscientiously-held beliefs or the written opinion of a physician that immunization would be injurious to their health. The Bill became law on May 29, 2021 without the Governor’s signature and took effect immediately.

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## **Louisiana**

### **(Pending Legislation):**

House Bill 349 prohibits the Office of Motor Vehicles from making the issuance, renewal, or revocation of a state issued special identification card contingent upon vaccination or immunity status. The Bill was sent to the Governor for executive approval on June 11, 2021.

House Bill 498 prohibits state and local government agencies and officials from discriminating against individuals based on their vaccination or immunity status. The Bill specifically states that the prohibition does not apply in the context of immunization requirements imposed by law on schools and educational institutions. The Bill was sent to the Governor for executive approval on June 11, 2021.

House Bill 103 will prohibit civil damages or any cause of action against an employer who “in the course of, through the performance of, or by a provision of the person’s business operations, refuses to mandate a COVID-19 vaccination or immunization for any employee or customer.” In other words, businesses will not be forced to mandate vaccinations, and the state cannot withhold licensing for businesses who do not wish to mandate vaccinations. The Bill was sent to the Governor for executive approval on June 11, 2021.

House Bill 579 would recognize the right of individual bodily autonomy and the rights of individuals to make their own healthcare decisions and accept or refuse any (i) health service, (ii) medical testing, (iii) medical intervention, (iv) medical treatment, or (v) vaccine based on religious, philosophical, or personal beliefs. The Bill would prohibit denying, restricting, infringing upon, or imposing conditions on an individual’s (a) employment, (b) travel, (c) education, (d) childcare, (e) religion, (f) benefits, (g) insurance, (h) entry into a governmental office or other publicly owned facility, or (i) participation in sports, camps, or other recreation based on their refusal of a treatment or vaccine. The Bill allows individuals to bring a civil action for violations in pursuit of injunctive relief, compensatory and punitive damages, costs, attorney fees, and other appropriate relief. As of May 5, 2021, the Bill is still under consideration in the Committee on Health and Welfare.

### **(Signed into Law):**

House Resolution 20 would authorize and direct facilities that are requiring students to receive the COVID-19 vaccine—including (i) licensed daycare centers, (ii) K-12 schools, (iii) colleges and universities, and (iv) vocational schools—to fully inform students that (a) the vaccine has only been granted emergency use authorization and lacks full approval from the FDA and (b) they have the right to refuse the vaccination for reasons of health, religion, or conscience. The Resolution was enrolled and signed by the Speaker of the House on May 10, 2021.

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## **Maine**

### **(Signed into Law):**

An Act to Protect Maine Children and Students from Preventable Diseases by Repealing Certain Exemptions from the Laws Governing Immunization Requirements removes certain exemptions from laws governing immunization requirements. Specifically, the Act eliminates all non-medical vaccine opt-outs for students at public and private schools, universities, and nursery schools. Healthcare facilities and healthcare employees are no longer permitted to refuse vaccination for non-medical reasons. The Act was signed into law on May 24, 2019.

### **(Pending Legislation):**

Legislative Document No. 867 would prevent mandatory vaccinations for COVID-19 for five years from the date of the first emergency use authorization to allow for “safety testing and investigations into reproductive harm.” The Bill was carried over to a subsequent special or regular session of the 130th Legislature on March 3, 2021.

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## **Maryland**

### **(Pending Legislation):**

House Bill 1171, the Maryland Employee Protection Plan for Vaccine Refusal, would prohibit an employer from terminating an employee for refusing the COVID-19 vaccine. The Bill provides that employees who refuse vaccination waive the right to file a civil action against their employer if they contract COVID-19 during the course of employment. The Bill was referred to the House where a hearing occurred on March 9, 2021.

House Bill 1150 would prohibit public schools from requiring a physician certification of immunization as a condition of admission if a parent or guardian objects to immunization based on bona fide religious beliefs. The Bill would also prohibit an individual from being required to provide medical information, including proof of vaccination, to obtain employment or to travel. The Bill was referred to the House where a hearing occurred on March 17, 2021.

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## **Massachusetts**

### **(Pending Legislation):**

House Bill 2411 would remove a provision from Massachusetts law that states: “in the absence of an emergency epidemic of disease declared by the Department of Public Health, a parent or guardian who states, in writing, that vaccination or immunization conflicts with their sincere religious beliefs cannot be required to submit a physician’s certification of immunization in order for their child to be admitted to school.” Contrarily, Senate Bill 1517 would remove the aforementioned provision but replace it with new language that creates exemptions to immunization for medical and religious reasons. Senate Bill 1517 would apply to (i) childcare centers, (ii) public preschools, (iii) public and private K-12 schools, (iv) recreational camps, and (v) public and private institutions of higher education. The Bill would require the Department of Public Health to create standardized exemption application forms that contain certain elements and approve or deny submitted applications. Under the Bill, private institutions would have the discretion to allow medical exemptions only. Both Bills

were referred to the Joint Committee on Public Health on March 29, 2021, and a hearing is scheduled for July 12, 2021.

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### Michigan

#### **(Pending Legislation):**

House Bill 4471, the Informed Consent in the Workplace Act, would prohibit employers from discriminating against individuals because they have not received or have refused certain vaccinations, including a COVID-19 vaccination. Under the Bill, an employer cannot (i) discharge, (ii) refuse to hire or recruit, (iii) discriminate with respect to employment, compensation, or a term, condition, or privilege of employment, or (iv) threaten to do so based on a person's vaccination stance or status. Employers would also be prohibited from requiring unvaccinated employees to wear a surgical face mask or display a mark distinguishing them from vaccinated employees. The Bill further prohibits employers from disclosing their employees' vaccination status to the public or retaliating against employees for filing a complaint. Employees can file a civil suit for violations. Also, the Bill authorizes injunctive relief, reasonable attorney fees, and treble damages. The Bill was referred to the Committee on Workforce, Trades and Talent on March 23, 2021.

House Bill 4791 would prohibit employers from requiring or coercing employees or applicants to disclose their vaccination status as a condition for employment. Employers would also be prohibited from classifying or segregating employees based on their vaccination status. The Bill would allow employees or applicants to file a civil suit for violations. The Bill was referred to the Committee on Oversight on May 5, 2021.

Senate Bill 457 would prohibit local health officers from issuing emergency orders that would require minors to receive a COVID-19 vaccination. The Bill was referred to the Committee on Government Operations on May 25, 2021.

House Bill 4667 would prohibit government entities from (i) producing or issuing vaccination passports, (ii) requiring individuals to present documentation of their COVID-19 vaccination status to access a public service, (iii) and imposing a fine, fee, or penalty on persons based on their vaccination status. The Bill defines a vaccination passport as "a document or system created or used for the primary purpose of diminishing or enlarging an individual's civil and political rights, privileges, and capacities based on the individual's COVID-19 vaccination status." The Bill was referred to the Committee on Health Policy and Human Services on June 3, 2021.

House Bill 4736 would prohibit the department from promulgating or enforcing a rule requiring individuals to be immunized against COVID-19. The Bill was referred to the Committee on Health Policy on April 29, 2021.

House Bill 4792, the COVID-19 vaccination privacy act, would prohibit places of public accommodation from requiring individuals to present documentation disclosing their COVID-19 vaccination or immunity status to gain access or receive services. The Bill was referred to the Committee on Oversight on May 5, 2021.

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### **Minnesota**

#### **(Pending Legislation):**

House File 41 would prohibit vaccine administration without the written consent of the person receiving the vaccine. Under the Bill, an individual's decision not to receive a vaccination is an impermissible basis to deny them the ability to engage in commerce. The Bill would further bar the government and any businesses operating in the state from discriminating against an individual based on immunization status or requiring individuals to present proof of vaccination to enter buildings open to the public. Violations could result in felony charges with a minimum sentence of ten (10) years in prison. The Bill was referred to the Health and Human Services Policy Committee on December 14, 2020.

House File 1243 would prohibit vaccine administration without the written consent of the person receiving the vaccine. The Bill explicitly states that even during a state of emergency, the written consent requirement applies. Further, the Bill prohibits any government official or agent from attempting to coerce or compel individuals to consent to vaccination by withholding a government benefit or any form of government assistance. The Bill was re-referred to the Health Finance and Policy Committee on March 4, 2021.

House File 1245, and companion Senate File 2394, prohibit the government and businesses from discriminating against individuals based on their vaccination status. In addition, the Bills state that individuals cannot be denied the ability to engage in commerce based on their vaccination status. Violations can result in a felony and minimum of ten years' imprisonment. House File 1245 was referred to the Health Finance and Policy Committee on February 18, 2021, and Senate File 2394 was referred to the Health and Human Services Finance and Policy Committee on April 12, 2021.

House File 2159 would prohibit vaccine administration without the written consent of the person receiving the vaccine. The Bill would further prohibit a government entity or political subdivision from requiring that patrons show proof of vaccination. Under the Bill, individuals or businesses could

file a civil claim for violations seeking injunctive relief and \$50,000 or more in damages for initial violations or \$100,000 or more in damages for second and subsequent violations. The Bill was referred to the Health Finance and Policy Committee on March 11, 2021.

House File 2347, the Vaccine Recipient Bill of Rights, would ensure that individuals have the right to determine whether obtaining a vaccine is in their own best medical interest without threat to their “livelihood, ability to attend school or freedom of movement.” The Bill also requires that individuals give informed consent before vaccination and prohibits employers from asking health care providers to promote a COVID-19 vaccine. Under the Bill, private businesses would be prohibited from requiring or coercing individuals to obtain a vaccine. The Bill was referred to the Health Finance and Policy Committee on March 22, 2021.

House File 2348 would establish a vaccine bill of rights that would allow individuals to determine what is in their own best medical interest and prohibit them from being coerced into taking an experimental or investigational medication. Under the Bill, out-of-state commercial vendors are prohibited from mandating that venue operators and organizers require patrons to provide proof of vaccination before entry. Vaccinations for PreK-12 students cannot be required unless medical and conscience-based exemptions are allowed. Further, interstate carriers would be prohibited from requiring carrier crews and customers to be vaccinated. The Bill was referred to the Health Finance and Policy Committee on March 22, 2021.

House File 2511, and companion Senate File 2430, would prohibit government entities and agents from issuing vaccine passports or other standardized documents designed to certify an individual’s COVID-19 vaccination or immunity status. The Bill would also prohibit businesses requiring patrons or customers to provide proof of vaccination or immunity in order to gain access into or services from the business. House File 2511 was referred to the Health Finance and Policy Committee on April 12, 2021, and Senate File 2430 was referred to the Health and Human Services Finance and Policy Committee on April 16, 2021.

House File 2541, and companion Senate File 2424, would prohibit employers from refusing to hire, discharging, or otherwise discriminating against an individual “with respect to the compensation or the terms, conditions, or privileges of employment” based on their vaccination status. Any violation would constitute a gross misdemeanor. House File 2541 was referred to the Committees on Labor, Industry, and Veterans and Military Affairs Finance and Policy on April 17, 2021, and Senate File 2424 was referred to the Labor and Industry Policy Committee on April 15, 2021.

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## Mississippi

Mississippi's relevant pending legislation died in committee.

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## **Missouri**

### **(Pending Legislation):**

House Bill 838 would prohibit any public employer from requiring any public employee to receive a COVID-19 vaccination. The Bill would also prohibit a political subdivision from adopting any ordinance, rule, or regulation requiring a public employer to implement a policy mandating COVID-19 vaccination for public employees. The Bill was referred to the Committee on Rules - Legislative Oversight on April 7, 2021.

House Bill 566 would prohibit governmental entities from requiring any person to receive an immunization against a contagious illness and prohibit employers from requiring their employees to receive immunizations. The Bill would further prohibit employers from terminating, disciplining, demoting, or otherwise discriminating against employees with respect to compensation or the terms, conditions, or privileges of employment based on their refusal to receive an immunization. The Bill was referred to the Special Committee on Government Accountability on May 14, 2021.

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## **Montana**

### **(Signed into Law):**

House Bill 334 provides a religious exemption to student immunization requirements. This Bill permits students to attend school without immunizations, if they file a signed and notarized form stating that immunization is contrary to their religious tenets and practices. The Bill also includes a medical exemption, and students can refrain from required immunizations if they file a written medical exemption statement signed by a healthcare provider and attesting that immunization would be unsafe given the student's medical circumstances. The Bill was signed into law on April 28, 2021 and will take effect on July 1, 2021.

House Bill 702 prohibits discrimination based on a person's vaccination status or possession of an immunity passport (defined as "a document, digital record, or software application indicating that a person is immune to a disease, either through vaccination or infection and recovery"). No individual can be required to receive an immunization that has only been granted emergency use authorization and lacks full approval from the FDA. Under the Bill, it is an unlawful discriminatory practice for a person or government agency to refuse or deny a person local or state services, advantages, or employment opportunities based on their vaccination or immunity status. Further, employers,

including healthcare entities, are prohibited from refusing employment to or discriminating against persons—with regard to compensation or terms, conditions, or privileges of employment—based on vaccination status or possession of an immunity passport. A person or government agency may require vaccination as long as they allow individuals to decline for medical or religious reasons. In addition, healthcare facilities do not unlawfully discriminate if they inquire about the immunization status of employees and volunteers. Licensed nursing homes, long-term care facilities, and assisted living facilities are exempt from compliance with the Bill, if compliance would result in a violation of CDC or CMS regulations and guidance. The Bill was signed into law on May 7, 2021 and took effect immediately.

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### **Nebraska**

#### **(Pending Legislation):**

Legislative Bill 643 would give individuals the right to decline mandatory vaccine directives from the state. In addition, parents would be permitted to decline vaccination of their children, and employers could decline vaccination for their employees. The Bill explicitly says that anyone who declines a mandatory vaccination will not be subject to penalty, litigation, or punishment from the state. The Bill was referred to the Health and Human Services Committee on January 22, 2021.

Legislative Bill 447 would change provisions relating to immunization under the Child Care Licensing Act. Specifically, the Bill would eliminate parents' ability to opt out of their children's immunizations before sending them to licensed childcare centers, unless they provide certification from a medical provider that immunization is not appropriate for a stated medical reason. The Bill was referred to the Health and Human Services Committee on January 20, 2021.

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### **Nevada**

At this time, Nevada has no relevant pending legislation.

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### **New Hampshire**

#### **(Pending Legislation):**

House Bill 220 would establish a policy of medical freedom with regard to immunizations for communicable diseases. The Bill further states that no person may be discriminated against for

refusal of an unwanted medical intervention, including immunization. The Bill passed the House on April 7, 2021 and is currently pending in the Senate Health and Human Services Committee.

House Bill 506 would require “equal access to public accommodations for persons who have declined medical treatments or use of medical devices.” Specifically, the Bill states that individuals cannot be denied benefits on the basis that “they have declined a medical treatment, medical test, or vaccination or because they refuse to use a medical device.” The Bill is currently pending with the Health, Human Services and Elderly Affairs Committee.

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### **New Jersey**

The New Jersey Law Against Discrimination prohibits employers from mandating anything that would require an employee to violate or forego a sincerely-held religious belief. On March 19, 2021, the Official State of New Jersey website provided clarification on the Law Against Discrimination as it relates to COVID-19, stating that “[a]n employer can require that an employee receive the COVID-19 vaccine in order to return to the workplace, unless the employee cannot get the vaccine because of a disability, because their doctor has advised them not to get the vaccine while pregnant or breastfeeding, or because of a sincerely held religious belief, practice or observance. . . . [I]f there is no reasonable accommodation that your employer can provide that would mitigate the risk of COVID-19 transmission to its employees and customers, then your employer can enforce its policy of excluding unvaccinated employees from the physical workplace, even if you are unvaccinated because of a disability, pregnancy or breastfeeding or a sincerely held religious belief.” Examples of reasonable accommodations include allowing unvaccinated employees to work remotely or providing them with personal protective equipment to mitigate the risk of COVID-19 transmission and exposure.

### **(Pending Legislation):**

Assembly Bill 5096 would prohibit the following entities from mandating that any person receive a COVID-19 vaccine: (i) state, county, and local government entities, (ii) public and private childcare centers, (iii) preschool programs, (iv) elementary and secondary schools, and (v) higher education institutions. The Bill’s restrictions would not apply to healthcare workers, individuals employed by or providing services at a healthcare facility, or others required to receive a vaccination as a condition of working with a medically vulnerable population. The healthcare worker exemption will be subject to an exception for those objecting based on sincerely held religious beliefs. Further, the Bill would require the New Jersey Department of Health to establish a program to reimburse healthcare workers and others required to be vaccinated for their out-of-pocket costs. The Bill was referred to the Assembly Health Committee on December 10, 2020.

Assembly Bill 5607, and its identical counterpart Senate Bill 3681, would prohibit discrimination against individuals who have not received the COVID-19 vaccine with regard to engaging in commerce, obtaining or maintaining employment, or gaining admission/entry by making it unlawful to (i) ask any individual if they have received the vaccine, (ii) require any individual to receive the vaccine, or (iii) require an individual to show proof of receiving the COVID-19 vaccine. Violations could result in up to \$25,000 in civil damages, reasonable attorney's fees and expenses, and any other relief authorized by law. Assembly Bill 5607 was referred to the Assembly Health Committee on May 12, 2021, and Senate Bill 3681 was referred to the Senate Health, Human Services and Senior Citizens Committee on April 26, 2021.

Assembly Bill 5609 would prohibit the government from discriminating against individuals who have not received the COVID-19 vaccine by making it unlawful to (i) ask any individual if they have received the vaccine, (ii) require any individual to receive the vaccine, or (ii) require an individual to show proof of receiving the COVID-19 vaccine as a pre-requisite to entering government buildings or receiving a benefit (directly or indirectly) from any government entity. Violators may be liable for \$10,000 in civil damages, reasonable attorney's fees and expenses, and any other relief authorized by law. The Bill was referred to the Assembly Health Committee on May 12, 2021.

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### **New Mexico**

#### **(Pending Legislation):**

Senate Bill 408 provides for a "right of bodily integrity," which includes a person's right to accept or reject medical interventions free from any threat or compulsion. Under the Bill, medical interventions include both puncturing a person's skin and inserting a foreign substance into a person's body. The Bill states that it is an unlawful discriminatory practice for an employer to refuse to hire, discharge, refuse to promote, or demote someone for exercising their "right to bodily integrity." The Bill was referred to the Senate Health and Public Affairs Committee on February 18, 2021.

Senate Bill 232 would permit a parent or guardian to object to their child's immunization if (i) a physician certifies that immunization would seriously endanger the life or health of the child, (ii) a religious officer affirms the child is of a denomination that "requires reliance upon prayer or spiritual means alone for healing," or (iii) the parent or guardian submits an affidavit stating that their religious beliefs or "reasons of conscience" do not permit administration of a vaccine. The Bill is currently pending with the Senate Judiciary Committee.

Senate Bill 244 would allow a certified nurse practitioner or a physician assistant to certify that an immunization would seriously endanger the life or health of a child when a child's parent or guardian

requests an immunization exemption. The Bill passed the Senate on March 10, 2021 and was reported by the House's Health & Human Services Committee with a "Do Pass" recommendation with one amendment on March 15, 2021.

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### **New York**

Under New York Public Health Law, there are currently no non-medical exemptions from vaccination requirements for children. On January 31, 2019, the state legislature repealed the exemption for those with religious beliefs against vaccination, still allowing for medical exemptions to immunization.

#### **(Pending Legislation):**

Assembly Bill 2081 would amend the Public Health Law to direct the Commissioner of the New York Department of Health to mandate a COVID-19 vaccine for persons residing in or working at residential healthcare facilities. The Bill was referred to the Health Committee on January 14, 2021.

Assembly Bill 4602 would prohibit mandatory vaccination as a condition of employment. Further, no COVID-19 immunization could be required for participation in the following activities: (i) school or daycare attendance (for both students and staff), (ii) travel, (iii) receipt of government services, (iv) entrance into public buildings, (v) use of public transportation, or (v) nursing home residency. Further, the Bill states that no person shall be required to have, carry, or present evidence of having received immunization against COVID-19, and government entities cannot provide financial rewards or incentives to individuals who receive a COVID-19 vaccine or health care providers who "achieve targeted vaccination rates." Similarly, Assembly Bill 4269, and identical Senate Bill 4376, would prohibit mandatory COVID-19 vaccinations. The Bills specifically prohibit the required vaccination of children under the age of eighteen and incapacitated individuals. Senate Bill 4367 was referred to the Health Committee on February 3, 2021, and Assembly Bills 4269 and 4602 were referred to the Health Committee on February 1, 2021 and February 4, 2021, respectively.

Senate Bill 2677 would provide a religious exemption to vaccination requirements for school attendance for children whose parents hold genuine and sincere religious beliefs against vaccination. The Bill was referred to the Health Committee on January 22, 2021.

Senate Bill 2678 would amend the existing medical exemption to mandatory vaccinations to protect providers against allegations of misconduct for failing to immunize an individual or for certifying that immunization would be detrimental to a patient's health. The Bill was referred to the Health Committee on January 22, 2021.

Senate Bill 6747 would prohibit public or private education institutions or day care facilities from mandating COVID-19 vaccinations of children, incapacitated persons, students, or staff. The Bill further prohibits requiring individuals to carry or present evidence of having received the COVID-19 vaccine. The Bill was referred to the Committee on Health on May 13, 2021.

Assembly Bill 7100 would create a vaccine bill of rights that prohibits mandatory COVID-19 vaccinations. Under the Bill, “[n]o person shall be required to receive such vaccine,” and individuals cannot be required to receive a vaccination for participation in education, employment, travel, or other activities. Additionally, the Bill states that “[n]o physician or nurse shall be asked by an employer to promote a COVID-19 vaccine.” The Bill was referred to the Assembly Health Committee on April 22, 2021.

Senate Bill 6495, and corresponding Assembly Bill 7829, would amend the state’s Public Health Law to require students attending colleges and universities to demonstrate proof of immunization against COVID-19. Senate Bill 6495 was referred to the Committee on Health on May 3, 2021. Assembly Bill 7829 was referred to the Committee on Health on May 25, 2021.

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### **North Carolina**

Under the North Carolina Occupational Safety and Health Act, employers are not authorized to mandate immunization for those who object to immunization on religious grounds, except where it is necessary for the protection of the health or safety of others.

#### **(Pending Legislation):**

House Bill 558 would make it unlawful for the state to mandate vaccinations against particular illnesses, including COVID-19. Further, a person cannot be subject to civil or criminal liability for refusing a vaccination, nor can an agency require vaccination as a condition of the receipt, renewal, or reinstatement of a license. The Bill explicitly states that the decision to receive or not receive a vaccination is “a private matter” and, therefore, those who refuse vaccination are not required to submit written statements detailing their moral or philosophical objections. In addition, hospitals cannot refuse to provide healthcare services based on a person’s vaccination history or discriminate against physicians, residents, or interns based on their vaccination status. Under the Bill, it would be an unlawful employment practice to (i) refuse to hire, (ii) discharge, (iii) penalize, or (iv) otherwise discriminate against an individual because of their vaccination status. It would also be discriminatory to deny any individual the full and equal enjoyment of (a) goods, (b) services, (c) privileges, (d) advantages, (e) facilities, and (f) public spaces on the basis of their vaccination or immunity status. The Bill was referred to the Committee on Health on April 15, 2021.

House Bill 876 would protect individual decision-making and personal health information “with regard to an individual’s private choices about receiving a COVID-19 vaccine[.]” The Bill would further prohibit the state or any political subdivision from issuing vaccine passports and protect against employment-related discrimination based on an employee’s refusal of experimental vaccines. In addition, the Bill would prohibit any adult or child from the required disclosure of their vaccination status “under any circumstance whether related to education, health care, occupational licensing, health insurance, or driving privileges.” The Bill was referred to the Committee on Rules on May 5, 2021.

House Bill 779, the “Coronavirus Vaccine Bill of Rights,” would prohibit all persons from being “mandated, coerced, forced, or pressured” into receipt of a COVID-19 vaccination. The Bill further states that persons cannot be required to provide proof of having received any COVID-19 vaccine as a condition of the following: (i) entering any public buildings, public lands, or public spaces owned, leased, or otherwise controlled by the state, (ii) participating in any public events, (iii) accessing any public transportation, (iv) attending any public school or educational institution, or (v) obtaining or maintaining employment with any public or private employer. The Bill was referred to the Committee on Rules on May 4, 2021.

House Bill 572 would prohibit agencies from adopting a rule that imposes a mandate or requirement “resulting in disciplinary action for a person to receive a vaccination as a condition of the receipt, renewal, or reinstatement of a license by an agency.” The Bill was referred to the Committee on Rules on May 11, 2021.

House Bill 686 would grant current and prospective employees of state and local government agencies a right to “refuse any of the coronavirus vaccines without being subjected to termination or retaliation.” The Bill further states that all persons, regardless of vaccination status, are entitled to the “full and free use” of government-owned or government-controlled buildings, including schools, colleges, and universities. The Bill was re-referred to the Committee on Health on May 5, 2021.

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### **North Dakota**

#### **(Signed into Law):**

House Bill 1465 prohibits state government entities from requiring documentation for the purpose of certifying an individual’s vaccination status or post-transmission recovery status before providing access to state property, funds, or services. It also prohibits the publishing of an individual’s vaccination record and prohibits requiring private businesses to obtain documentation of an individual’s vaccination status before providing employment or providing access to services. Under

the Bill, private businesses are prevented from requiring customers to provide documentation of vaccination. The Bill was signed into law on May 7, 2021 and took effect immediately.

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### **Ohio**

#### **(Pending Legislation):**

House Bill 253 states that no individual can be required to show proof of a COVID-19 vaccination in order to enter the state or a building or facility that is controlled, operated, or owned by a state agency. Under the Bill, political subdivisions and state agencies would be prohibited from adopting, enacting, or issuing any order, ordinance, resolution, or rule that would require an individual to show proof of vaccination against COVID-19. The Bill was referred to the Health Committee on April 14, 2021.

House Bill 248, the Vaccine Choice and Anti-Discrimination Act, would permit an individual to decline a required vaccination, whether verbally or in writing, based on medical contraindications, natural immunity, or reasons of conscience (including religious convictions). The Bill would further require that persons, political subdivisions, public officials, or state agencies mandating vaccination notify individuals of the available exemptions. The Bill was referred to the House Health Committee on April 14, 2021.

House Bill 350 would prohibit mandatory COVID-19 vaccinations for adults and minors. Additionally, the Bill prohibits individuals from being required to show proof of vaccination or recovery from COVID-19. However, this Bill states that healthcare providers must honor exemptions based on religious or medical grounds. The Bill was referred to the House Civil Justice Committee on June 16, 2021.

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### **Oklahoma**

#### **(Signed into Law):**

Senate Bill 658 prohibits certain schools and institutions from requiring COVID-19 vaccinations or vaccine passports as a condition of attendance. The Bill further prohibits certain schools and institutions from implementing a mask mandate for students who have not been vaccinated against COVID-19. The Bill was signed into law on May 28, 2021 and will take effect on July 1, 2021.

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## Oregon

Oregon Revised Statute 433.416, which was enacted in 1989, prohibits employers from requiring vaccinations as a condition of employment for healthcare workers, unless vaccination is otherwise required by federal or state law, rule, or regulation. Under Oregon law, “healthcare worker” is broadly defined to include: (i) persons licensed to provide healthcare, (ii) employees of healthcare facilities, (iii) licensed healthcare providers (including clinical laboratories), (iv) firefighters, (v) law enforcement and corrections officers, and (vi) parole or probation officers.

### **(Pending Legislation):**

Senate Bill 771 would prohibit discrimination based on (i) an individual’s vaccination history, (ii) refusal to obtain a vaccination, or (iii) failure to provide proof of immunity. The Bill would allow civil actions against employers who engage in these unlawful employment practices. The Bill was referred to the Committee on Labor and Business on February 22, 2021.

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## Pennsylvania

### **(Pending Legislation):**

House Bill 262, the Right to Refuse Act (formerly HB 2731), would prohibit employers from (i) discharging, (ii) refusing to hire, (iii) threatening, or (iv) otherwise discriminating or retaliating against current or prospective employees who refuse to participate in a vaccination or an invasive medical test required by the employer. Employers would also be prohibited from taking adverse actions against employees who inform other employees of these provisions. Under the Bill, employees who experience discrimination or retaliation would have the right to bring a civil action against their employer within three years of the violation and would be entitled to reinstatement, restitution (equal to three times the amount of the employee’s wages and fringe benefits), reasonable attorney fees, costs, and any other court-approved relief. The Bill was re-committed to the Rules Committee on June 15, 2021.

Senate Bill 471, the Medical Freedom Act, would prohibit the Commonwealth, its political subdivisions, or its agents from mandating that persons receive a vaccination. If an official or entity recommends vaccination, they must provide notice that the recommendation is not mandatory. Furthermore, the Bill states that persons who exercise the right not to be vaccinated—or the “inalienable right to bodily integrity”—cannot be denied any right or privilege related to (i) citizenship, (ii) employment, (iii) access to education, (iv) the ability to travel, (v) entry into a public place, (vi) the ability to purchase goods, or (vii) medical care on the basis of their refusal to be vaccinated. Under the Bill, employers would be prohibited from taking the following adverse actions

against individuals who refuse vaccination: (a) termination, (b) suspension, (c) involuntary reassignment, (d) unpaid leave, (e) demotion, (f) harassment, or (g) coercion. The Bill was referred to the Health and Human Services Committee on March 25, 2021.

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### **Rhode Island**

#### **(Pending Legislation):**

House Bill 5989 would prohibit discrimination against individuals who refuse to be vaccinated or show proof of vaccination with respect to employment, public accommodations, and any form of loan or credit. The Bill would make it an unlawful employment practice to (i) refuse to hire, (ii) discharge, (iii) penalize, or (iv) discriminate against an individual, including any healthcare professional, based on their vaccination history. The House Judiciary Committee recommended that the Bill be held for further study on April 6, 2021.

House Bill 6302 would prohibit state agencies, private businesses, and colleges and universities from requiring proof of COVID-19 vaccination as a condition of entry. The Bill was recommended to be held for further study on May 13, 2021.

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### **South Carolina**

#### **(Signed into Law):**

Executive Order No. 2021-23 prohibits any agency, department, official, employee of the state, or political subdivision “from adopting or enforcing any order, ordinance, policy, regulation, rule, or similar measure that requires or purports to require an individual to provide, as a condition of receiving any government service or entering any building, structure, facility, or other physical or geographic location, any certification or documentation regarding the individual’s vaccination status for any COVID-19 vaccine administered under an emergency use authorization issued by the FDA.” The Order took effect on May 11, 2021.

#### **(Pending Legislation):**

House Bill 3511 would prohibit employers from taking any adverse actions against employees who refuse a COVID-19 vaccine, including (i) termination, (ii) suspension, (iii) involuntary reassignment, or (iv) demotion. Related House Bill 3217 would allow individuals to opt out of infectious or contagious disease vaccinations for any reason and prohibit regulatory authorities from interfering

with the prescribing practices of a practitioner. Both Bills were referred to the House Committee on Medical, Military, Public and Municipal Affairs on January 12, 2021.

Senate Bill 177, and similar House Bill 3711, would prevent any person from being compelled to receive a COVID-19 vaccination and prohibit employers from taking adverse actions—including (i) termination, (ii) suspension, (iii) involuntary reassignment, or (iv) demotion—against employees who choose not to be vaccinated. Senate Bill 177 states that individuals treating or caring for vulnerable populations (persons over the age of sixty or with underlying medical conditions) can be required to receive a vaccination. The Bill has no prohibition against an employer encouraging, promoting, or administering vaccinations or offering incentives to employees who choose to get vaccinated. Senate Bill 177 passed the Senate on April 8, 2021 and was referred to the House Committee on Medical, Military, Public and Municipal Affairs on April 13, 2021. House Bill 3711 was referred to the House Judiciary Committee on January 26, 2021.

House Bill 4391 would prohibit any business operating in the state from requiring “patrons or customers to provide any documentation certifying COVID-19 vaccination or post-infection recovery to gain access to, entry upon, or service from the business’s operations.” Violations of this provision may result in a fine of up to \$5,000 per violation. The Bill does not otherwise restrict businesses from instituting screening protocols in accordance with state or federal law to protect public health. The Bill was referred to the House Judiciary Committee on May 13, 2021.

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### **South Dakota**

#### **(Signed into Law):**

Executive Order 2021-08 bans government-mandated vaccine passports in the state. The Order prohibits government agencies and subdivisions from requiring a COVID-19 vaccine passport or any similar proof of COVID-19 vaccination as a prerequisite to receipt of government benefits or licenses. Under the Order, government agencies and subdivisions also cannot require private businesses to mandate that patrons present COVID-19 passports. The Order took effect on April 20, 2021.

#### **(Pending Legislation):**

House Bill 1159 would prohibit interference with the “right to bodily integrity” in contagious disease control. The Bill prohibits any discrimination or retaliation against those who refuse a vaccine with respect to (i) association, (ii) education, (iii) employment, (iv) housing, (v) property rights, (vi) public accommodations, or (vii) public services. The Bill allows employers to screen any person entering the workplace in order to determine if they have an infectious or possibly contagious disease, as long as

the screening is job-related and consistent with business necessity. The Bill passed in the Health and Human Services Committee on February 11, 2021.

House Bill 1097 would provide for philosophical exceptions to required vaccinations for school children and students enrolling in public or private post-secondary education. The Bill would allow parents or guardians to present a written, signed statement indicating that they are opposed to immunization because of a sincerely held religious or philosophical belief. The Bill passed the Health and Human Services Committee on February 11, 2021.

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### **Tennessee**

#### **(Signed into Law):**

Senate Bill 187, and corresponding House Bill 513, prohibit state and local authorities from forcing, requiring, or coercing an individual to receive a COVID-19 vaccination against their will. The Bills revise present law provisions governing the immunization of school children and also prohibit required medical treatments on the basis of religion or conscience (although students of public institutions of higher education who deliver healthcare services may still be required to receive a vaccination). House Bill 13 was substituted for Senate Bill 187 on April 28, 2021. House Bill 13 was signed into law on May 25, 2021 and took effect immediately.

Senate Bill 858, and corresponding House Bill 575, prohibit state and local governments from mandating that private businesses in the state require proof of COVID-19 vaccination as a condition of entering or utilizing such business. The Bills also prohibit state and local governments from requiring proof of COVID-19 vaccination as a condition of entering government premises or utilizing government services. Senate Bill 858 was substituted for House Bill 575 on May 3, 2021. Senate Bill 858 was signed into law on May 26, 2021 and took effect immediately.

#### **(Pending Legislation):**

Senate Bill 564 would create a civil cause of action for discrimination based on whether an individual has or has not received a COVID-19 vaccine or has opted not to receive the vaccine. Prohibited discrimination includes a direct or indirect act or practice of (i) exclusion, (ii) distinction, (iii) restriction, (iv) segregation, (v) limitation, (iv) refusal, (v) denial, (vi) differentiation, or (vii) preference. The Bill would impose a \$1,000 fine for the first act of discrimination, a \$10,000 fine for the second act of discrimination, and a \$750,000 fine for a third or subsequent act of discrimination. On April 13, 2021, the Bill was deferred in the Senate Judiciary Committee until January 13, 2022.

Senate Bill 1308 would prohibit employers and state and local governments from requiring employees to receive a COVID-19 vaccine as a condition of maintaining employment. The Bill further prohibits employers and government entities from taking adverse actions against employees for refusing to receive the vaccine. On March 30, 2021, the Bill was assigned to the General Subcommittee of the Senate Commerce and Labor Committee.

Senate Bill 1313 would prohibit schools from forcing, coercing, or requiring students to receive a COVID-19 vaccination. Schools would also be prohibited from taking adverse actions against students who refuse vaccination. Under the Bill, students choosing to be vaccinated would have to provide written consent themselves or through a parent or guardian. As of May 3, 2021, the Bill is still under consideration by the Senate.

Senate Bill 320, and corresponding House Bill 794, would make it a discriminatory practice to deny an individual equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement based on whether an individual has received medical treatment. The Bills also prohibit a political subdivision from enacting or enforcing a policy that would allow for discrimination based on whether an individual has received a medical treatment. A medical treatment is defined as an immunization with the intended purpose of treating or preventing a medical condition, sickness, disease, or communicable disease. Both Bills were deferred until the 2022 legislative session.

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### **Texas**

#### **(Signed into Law):**

Executive Order GA 35 prohibits state agencies and political subdivisions from adopting or enforcing any order, ordinance, policy, regulation, rule, or similar measure that requires an individual to provide documentation regarding the individual's COVID-19 vaccination status for any vaccine administered under an emergency use authorization. The Order also prohibits any public or private entity receiving public funds from requiring consumers to provide, as a condition of receiving any service or entering any place, documentation regarding such vaccination status. However, an exception exists to allow (i) nursing homes, (ii) state supported living centers, (iii) assisted living facilities, and (iv) long-term care facilities to require documentation of residents' vaccination status. The Order took effect on April 5, 2021.

Senate Bill 968 prohibits businesses in the state from requiring "a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery" to enter, gain access to, or receive any service from such businesses. Businesses that fail to comply with

this provision are “not eligible to receive a grant or enter into a contract payable with state funds.” The Bill was signed into law on June 7, 2021 and took effect immediately.

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### Utah

#### **(Signed into Law):**

House Bill 308 prohibits governmental entities from requiring an individual to receive a COVID-19 vaccine. A governmental entity includes: (i) an executive agency, (ii) the legislative branch, (iii) the judicial branch, (iv) the State Board of Education, (v) the Utah Board of Higher Education, (vi) institutions of higher education, and (vii) political subdivisions of the state (including school districts). Such entities may not make receipt of the vaccine a condition of employment, participation in activities, or attendance at events that are hosted or sponsored by the entity. This prohibition does not apply to employees who works in a public health or medical setting and are required to receive vaccinations in order to perform their assigned duties and responsibilities. The Bill was signed into law on March 16, 2021 and took effect on May 5, 2021.

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### Vermont

#### **(Pending Legislation):**

House Bill 283 would prohibit any interference with an individual’s rights to make their own health care decisions. Under the Bill, individuals would be able to accept or refuse the following based on their religious, conscience, or personal beliefs: (i) health or medical intervention, (ii) testing, (iii) treatment, or (iv) a vaccine. The Bill further states that public and private entities cannot restrict, infringe upon, or impose conditions on an individual’s (a) employment, (b) travel, (c) education, (d) child care, (e) religion, (f) benefits, (g) insurance, or (h) participation in sports, camps, or other recreation based on the refusal of any medical intervention, testing, treatment, or vaccine. The Bill was referred to the Committee on Human Services on February 18, 2021.

House Bill 452 would prohibit the use of COVID-19 vaccine passports. The Bill was read the first time and referred to the Committee on Health Care on April 30, 2021.

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### Virginia

Virginia’s relevant pending legislation died in committee.

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## **Washington**

The Washington State Department of Labor & Industries' updated COVID-19 workplace safety and health guidance requires that employers confirm their employees' vaccination status before ending masking and social distancing requirements. Employees can either sign a document attesting to their status or provide proof of vaccination. Employers must be able to demonstrate that they have verified vaccination status for all workers who are not masked or physically distanced. This guidance was updated on June 14, 2021.

### **(Pending Legislation):**

House Bill 1305 would prohibit employers from requiring employees to submit to vaccination as a condition of employment. Under the Bill, individuals "retain the right to be free and independent and maintain their inalienable and fundamental right of self-determination to make their own health decisions," including the right to refuse health related measures such as a vaccination. The Bill also prohibits public and private entities from infringing upon, putting conditions on, restricting, or taking away a person's ability to fully participate in the following: (i) important services, (ii) employment, (iii) education, (iv) religion, (v) travel, (vi) sports, (vii) hobbies, (viii) entertainment, and (ix) lifestyle preferences based on their refusal to be vaccinated. The Bill was referred to the Health Care and Wellness Committee on January 19, 2021.

Senate Bill 5144 would prohibit a state agency from requiring a COVID-19 vaccination as a condition of employment. The Bill would also prohibit the following persons from directly or indirectly requiring employees to receive a COVID-19 vaccination: (i) employers, (ii) schools, (iii) universities, (iv) transportation providers, or (v) any place of public resort, accommodation, assemblage or amusement. This Bill was referred to the Health and Long-Term Care Committee on January 12, 2021.

House Bill 1065 would prohibit public and private employers from requiring the COVID-19 vaccine as a condition of employment, unless the vaccine meets certain standards, including full FDA approval and testing regarding long-term effects and efficacy. The Bill would also prohibit employers from requiring the COVID-19 vaccination if an employee has a medical, philosophical, or religious objection to the vaccine. This Bill was referred to the Health Care and Wellness Committee on January 11, 2021.

House Bill 1570 would prohibit government entities from requiring individuals to present proof of a COVID-19 vaccination in order to access a public space. Government entities include any unit of state or local government. Public places include sites accessible to the general public for business,

entertainment, or another lawful purpose. The Bill was referred to the Health Care and Wellness Committee on April 5, 2021.

House Bill 1006 would protect the right of every Washington resident to decline an immunization or vaccination based on religion or conscience. The Bill was referred to the Health Care and Wellness Committee on January 11, 2021.

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### **West Virginia**

#### **(Pending Legislation):**

House Bill 4114, the Informed Consent Protection Act, and related Senate Bill 301 would prohibit healthcare workers and healthcare facilities from discriminating against patients solely on the basis that the patient has chosen to delay or decline vaccination. A penalty of \$1,000 will be imposed for an initial violation, and upon a second violation, the license of the practitioner or facility may be revoked or suspended. House Bill 4114 and Senate Bill 301 were referred to the Health and Human Resources Committee on January 13, 2021 and February 16, 2021, respectively.

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### **Wisconsin**

#### **(Pending Legislation):**

Assembly Bill 23, and companion Senate Bill 4, would prohibit the Department of Health Services and local health officers from mandating COVID-19 vaccination. On May 6, 2021, Assembly Bill 23 was referred to the Assembly Committee on Rules after being vetoed by the Governor. Senate Bill 4 passed the Senate on February 16, 2021 and was referred to the Assembly Committee on Rules on March 17, 2021.

Assembly Bill 25, and companion Senate Bill 5, would prohibit employers from requiring current or prospective employees to receive a COVID-19 vaccine or show proof of vaccination as a condition of employment. Assembly Bill 25 passed the Assembly on March 23, 2021 and was referred to the Senate Committee on Senate Organization on March 24, 2021. Senate Bill 5 received a passage recommendation by the Senate Committee on Human Services, Children and Families on January 22, 2021.

Assembly Bill 299, and companion Senate Bill 383, would prohibit the state, government entities, and private persons or businesses in the state from requiring any person to provide proof of COVID-19 vaccination “as a condition of receiving any services, transacting any business, accessing any

building,” or participating in any government or nonprivate function. Assembly Bill 299 passed the Assembly on June 16, 2021 and was referred to the Senate Committee on Health on June 21, 2021. Senate Bill 383 was referred to the Senate Committee on Health on May 25, 2021.

Senate Bill 342, and companion Assembly Bill 316, would prohibit the state or any government entity from discriminating against any person based on whether they have received a COVID-19 vaccination or have proof of their vaccination status. Senate Bill 342 was referred to the Senate Committee on Health on May 14, 2021, and Assembly Bill 316 was referred to the Assembly Committee on Constitution and Ethics on May 7, 2021.

Assembly Bill 303 would prohibit any private person or entity in the state from discriminating “against any customer, client, or potential customer or client based on whether the person has received any vaccine or is able to show proof of having received any vaccine.” The Bill was referred to the Assembly Committee on Constitution and Ethics on May 3, 2021.

Assembly Bill 309 would amend Wisconsin’s anti-discrimination statute to make “vaccination status” a protected class and an unlawful basis for discrimination. The Bill was referred to the Assembly Committee on Constitution and Ethics on May 4, 2021.

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### **Wyoming**

At this time, Wyoming has no relevant pending legislation.

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### **Contact us**

If you have questions about COVID-19 and business liability in your state contact Lowell Pearson, Jenna Brofsky, Zaina Niles or your Husch Blackwell attorney.

### **Your comprehensive COVID-19 legal resource**

Since the pandemic’s onset, Husch Blackwell has continually monitored state-by-state orders regarding capacity, masking, vaccines, and more. We regularly address your FAQs and provide you with easy-to-use COVID-19 tools about returning to work and navigating federal programs. Contact our industry-specific legal teams or your Husch Blackwell attorney to plan through and beyond the pandemic.

[View our update from February 9, 2022.](#)