

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: S10/4/21

# A Bill

SENATE BILL 739

5 By: Senators K. Hammer, B. Ballinger, *Rice, Flippo*  
6 By: Representatives Bryant, Haak, *M. Gray, Vaught, Crawford, Bentley*  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING EMPLOYMENT ISSUES RELATED TO  
10 CORONAVIRUS 2019 (COVID-19); TO PROVIDE EMPLOYEE  
11 EXEMPTIONS FROM FEDERAL MANDATES AND EMPLOYER  
12 MANDATES RELATED TO CORONAVIRUS 2019 (COVID-19); TO  
13 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
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### Subtitle

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17 TO PROVIDE EMPLOYEE EXEMPTIONS FROM  
18 FEDERAL MANDATES AND EMPLOYER MANDATES  
19 RELATED TO CORONAVIRUS 2019 (COVID-19);  
20 AND TO DECLARE AN EMERGENCY.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

26 (a) The General Assembly finds that:

27 (1) The United States Government is mandating that employers  
28 take actions related to coronavirus 2019 (COVID-19) vaccinations, including  
29 forcing an employee to be vaccinated against the employee's will;

30 (2) Vaccination mandates are an overreach of authority;

31 (3) Many employers and employees in Arkansas will soon be  
32 subject to this vaccination mandate; and

33 (4) Arkansas employees need to be protected from this type of  
34 overreach.

35 (b) The General Assembly intends for this act to:

36 (1) Protect employees in Arkansas from impending terminations



1 due to vaccination mandates; and

2 (2) Create the ability for funding to be available to assist  
3 employees in Arkansas with the costs associated with testing related to the  
4 vaccination mandate through the methods provided in this act, including  
5 without limitation coronavirus 2019 (COVID-19) relief funds distributed from  
6 the American Rescue Plan Act of 2021, Pub. L. No. 117-2.

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8 SECTION 2. Arkansas Code Title 11, Chapter 5, Subchapter 1, is amended  
9 to add an additional section to read as follows:

10 11-5-118. Exemption for employees from mandates related to coronavirus  
11 2019 (COVID-19).

12 (a) An employer that requires or is mandated to require vaccination or  
13 immunization for coronavirus 2019 (COVID-19) or its variants for its  
14 employees shall provide a specific exemption process.

15 (b) The specific exemption process shall include options that allow  
16 the employee to produce either:

17 (1) A negative antigen detection test result or molecular  
18 diagnostic test result no more than one (1) time per week showing that the  
19 employee is not positive for coronavirus 2019 (COVID-19); or

20 (2) Proof of immunity for the virus that causes coronavirus 2019  
21 (COVID-19) or its variants, including without limitation the presence of  
22 antibodies, T cell response, or proof of a positive coronavirus 2019 (COVID-  
23 19) or its variants test, on a basis of two (2) times per year, not to exceed  
24 one (1) time every six (6) months, from a licensed healthcare provider.

25 (c)(1) If multiple proven test processes are available to an employee  
26 under subsection (b) of this section, the employee may choose which test to  
27 take.

28 (2) The employee may provide test results obtained outside of  
29 the employer or a licensed healthcare provider if the test meets the  
30 guidelines contained within the Policy for Coronavirus Disease-2019 Tests  
31 During the Public Health Emergency (Revised) issued by the United States  
32 Department of Health and Human Services Food and Drug Administration Center  
33 for Devices and Radiological Health.

34 (3)(A) The cost of the testing shall be covered through any  
35 state or federal funding made available, including without limitation  
36 coronavirus 2019 (COVID-19) relief funds distributed from the American Rescue

1 Plan Act of 2021, Pub. L. No. 117-2, if the employee's health benefit plan  
2 does not provide coverage for the testing.

3 (B) In the event that the cost of testing under  
4 subdivision (c)(3)(A) of this section is not available, the cost of the  
5 testing shall be covered by the employee.

6 (d) An employer shall provide the specific exemption process  
7 required under this section in addition to any other exemptions offered by  
8 the employer.

9 (e) If an employee complies with the requirements of the specific  
10 exemption process related to coronavirus 2019 (COVID-19) as required by this  
11 section, the employee shall not be terminated for mandates related to  
12 coronavirus 2019 (COVID-19).

13 (f) Nothing in this section should be interpreted to modify any other  
14 agreements between the employer and employee or to amend or affect the  
15 employment-at-will doctrine, whether written or otherwise.

16 (g) The Department of Finance and Administration shall establish rules  
17 regarding the method of distribution of coronavirus 2019 (COVID-19) relief  
18 funds from the American Rescue Plan Act of 2021, Pub. L. No. 117-2, to  
19 employees and employers to cover the cost of testing, to include without  
20 limitation the:

21 (1) Timely distribution of funds to recipients within thirty  
22 (30) days;

23 (2) Establishment of an option for distribution to an employer  
24 that chooses to receive funds for disbursement to employees; and

25 (3) Verification and method of authentication of receipts that  
26 shall meet legislative auditing requirements, including without limitation  
27 the development of forms.

28 (h) The department shall report to the Legislative Council on a  
29 monthly basis on the disbursement of funds under this section.

30 (i) If an employee is terminated due to the employer's violation of  
31 this section, the employee may be eligible for unemployment benefits in  
32 addition to any other remedy available to the employee.

33 (j) This section shall expire on July 31, 2023, unless extended by the  
34 General Assembly.

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36 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly of the State of Arkansas that mandates forcing actions  
2 related to coronavirus 2019 (COVID-19) vaccinations are an overreach of  
3 authority; that vaccination mandates will be imposed on many employers and  
4 employees in Arkansas; that employees are facing impending terminations  
5 related to exercising their rights to refuse a vaccination; and that this act  
6 is immediately necessary to protect the people of Arkansas from this type of  
7 overreach. Therefore, an emergency is declared to exist, and this act being  
8 immediately necessary for the preservation of the public peace, health, and  
9 safety shall become effective on:

10 (1) The date of its approval by the Governor;

11 (2) If the bill is neither approved nor vetoed by the Governor,  
12 the expiration of the period of time during which the Governor may veto the  
13 bill; or

14 (3) If the bill is vetoed by the Governor and the veto is  
15 overridden, the date the last house overrides the veto.

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