



Sub. S.B. 254

123rd General Assembly
(As Passed by the Senate)

Sens. Johnson, Prentiss, Drake, Spada, Mumper, Espy, Gardner, Brady

BILL SUMMARY

- Requires, with certain exceptions, that pupils beginning kindergarten during or after the 2001 school year be immunized against chicken pox.

CONTENT AND OPERATION

Current immunization requirements

Current law requires that pupils attending public schools or nonpublic schools that meet state educational standards have certain immunizations. The diseases against which they must be immunized are mumps, poliomyelitis, diphtheria, pertussis, tetanus, rubeola, and rubella. Kindergartners are also required to have been immunized against hepatitis B.

A pupil may not be permitted to remain in school for more than 14 days unless the pupil presents written evidence satisfactory to the person in charge of admission that the pupil has been immunized against the disease or diseases or is in the process of being so immunized. "In the process of being so immunized" means the pupil has been immunized against mumps, rubeola, and rubella, and if not immunized against poliomyelitis, diphtheria, pertussis, tetanus, or hepatitis B, has received at least the first dose of the immunization sequence and presents written evidence to the school principal of each subsequent dose required to obtain immunization at the intervals prescribed by the Ohio Department of Health. A pupil admitted while in the process of being immunized who does not comply with the immunization interval schedule prescribed by the Department is to be excluded from school on the 15th day of the following school year. Readmittance is permitted only after the pupil provides evidence to the school principal of progress on the immunization interval schedule.

School boards, and municipal corporations and townships on application of a school board, are required to provide immunizations against the diseases listed

above to pupils who have not been provided with them by their parents or guardians. The immunizations are to be provided without delay and at public expense.

The Department has authority to approve methods of immunization against the diseases for which pupils are required to be immunized.

Exceptions to immunization requirements

There are several statutory exceptions to the immunization requirements. A pupil who has had natural rubeola or mumps, and presents a signed statement from a parent or physician to that effect, is not required to be immunized against the disease for which there is immunity. A pupil is not required to be immunized if a written statement is presented by the parent or guardian stating an objection to immunization for good cause, including religious convictions. If a physician certifies in writing that an immunization against a particular disease is medically contraindicated, a pupil is not required to be immunized against that disease. The statute provides, however, that the exceptions do not limit or impair the right of a school district board of education to make and enforce rules to secure immunization of the pupils under its jurisdiction.

The bill

The bill requires that pupils who begin kindergarten during or after the 2001 school year be immunized against chicken pox. It revises the definition of "in the process of being so immunized" to include chicken pox as one of the diseases against which a pupil must have been completely immunized.

The bill applies the current exceptions to the immunization requirements to chicken pox, but also makes applicable to chicken pox immunizations the provision stating that the statute providing the exceptions does not limit or impair the right of a school board to require immunization (see **COMMENT**).

Chicken pox is added to the diseases for which the Department of Health is authorized to approve methods of immunization.

COMMENT

A school board has authority to make and enforce rules to secure the immunization of the pupils attending or eligible to attend the district's schools. Prior to enactment of the current statute, the Ohio Supreme Court upheld the authority of school boards to make and enforce such rules. (*State, ex rel. Milhoof v. Board of Education* (1907), 76 Ohio St. 297; *State ex rel. Dunham v. Board of Ed. of City School Dist. of Cincinnati* (1951), 154 Ohio St. 469.) The Miami County Court of Appeals later considered this authority in light of the statute, which

requires immunization but permits exceptions. It held that the provision stating that the statute does not limit or impair a board's right to make and enforce rules to secure immunization reaffirms the authority of school boards to require immunization of all pupils. (*State ex rel. Mack v. Board of Ed. of Covington* (Miami 1963), 1 Ohio App. 2d 143.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-15-00	p. 1379
Reported, S. Health, Human Services & Aging	05-16-00	pp. 1697-1698
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