

Senate Bill 799

Sponsored by Senator HEARD

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits school districts from requiring disclosure of student's medical history as condition of student attending school.

A BILL FOR AN ACT

1
2 Relating to student medical history; creating new provisions; and amending ORS 433.240, 433.255,
3 433.267, 433.269 and 433.273.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) A school district may not condition a student's attendance at a school**
6 **on the disclosure of the student's medical history to the school district.**

7 **(2) A school district shall ensure that whenever a student's medical history is requested,**
8 **including as provided by ORS 336.211 and 433.267, the school district provides a written notice**
9 **that explains that failure to provide the medical history cannot make the student ineligible**
10 **to attend school.**

11 **(3) When a student's medical history is requested for the purpose of providing educa-**
12 **tional services to a student, a school district shall provide written notice that the disclosure:**

13 **(a) Is voluntary and that failure to disclose does not make a student ineligible to attend**
14 **school;**

15 **(b) May be limited to only information required for educational purposes; and**

16 **(c) Does not need to include the student's complete medical history.**

17 **(4) Nothing in this section prevents a school district from requiring a student to:**

18 **(a) Provide information related to, or needed for, the administration of medication under**
19 **ORS 339.866 or 339.869;**

20 **(b) Have a physical examination as a condition for participating in extracurricular sports,**
21 **as provided by ORS 336.479; or**

22 **(c) Provide a medical release after exhibiting signs, symptoms or behaviors consistent**
23 **with a concussion or being diagnosed with a concussion, as provided by ORS 336.485.**

24 **SECTION 2. ORS 433.240 is amended to read:**

25 433.240. *[(1)]* In adopting ORS 433.235 to 433.284, the Legislative Assembly recognizes the obli-
26 gation of parents to have their children properly immunized *[and to provide to schools and facilities*
27 *accurate records of immunization].*

28 *[(2) Notwithstanding ORS 339.030, nothing in ORS 433.235 to 433.284 operates to remove parental*
29 *liability under compulsory attendance laws.]*

30 **SECTION 3. ORS 433.255 is amended to read:**

31 433.255. Except in strict conformity with the rules of the Oregon Health Authority, no child or

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 employee shall be permitted to be in any school or children’s facility when:

- 2 (1) That child or employee has any restrictable disease; **or**
- 3 (2) That child or employee comes from any house in which exists any restrictable disease[; or]
- 4 [(3) That child has been excluded as provided in ORS 433.267 (5) or (7)].

5 **SECTION 4.** ORS 433.267 is amended to read:

6 433.267. (1) [As a condition of attendance in any school or children’s facility in this state,] **A**
 7 **school district may request that** every child through grade 12 [shall] submit to the
 8 administrator[, unless the school or facility the child attends already has on file a record that indicates
 9 that the child has received immunizations against the restrictable diseases prescribed by rules of the
 10 Oregon Health Authority as provided in ORS 433.273,] one of the following:

11 (a) A document signed by the parent, a practitioner of the healing arts who has within the scope
 12 of the practitioner’s license the authority to administer immunizations or a representative of the
 13 local health department certifying the immunizations the child has received;

14 (b) A document signed by a physician or a representative of the local health department stating
 15 that the child should be exempted from receiving specified immunization because of indicated med-
 16 ical diagnosis; or

17 (c) A document, on a form prescribed by the authority by rule and signed by the parent of the
 18 child, stating that the parent is declining one or more immunizations on behalf of the child. A doc-
 19 ument submitted under this paragraph:

20 (A) May include the reason for declining the immunization, including whether the parent is de-
 21 clining the immunization because of a religious or philosophical belief; and

22 (B) Must include either:

23 (i) A signature from a health care practitioner verifying that the health care practitioner has
 24 reviewed with the parent information about the risks and benefits of immunization that is consistent
 25 with information published by the Centers for Disease Control and Prevention and the contents of
 26 the vaccine educational module approved by the authority pursuant to rules adopted under ORS
 27 433.273; or

28 (ii) A certificate verifying that the parent has completed a vaccine educational module approved
 29 by the authority pursuant to rules adopted under ORS 433.273.

30 [(2)(a)] **(2)** A newly entering child or a transferring child [shall be required] **may be requested**
 31 to submit the document described in subsection (1) of this section prior to attending the school or
 32 facility.

33 [(b) Notwithstanding paragraph (a) of this subsection, a child transferring from a school in the
 34 United States must submit the document required by subsection (1) of this section not later than the
 35 exclusion date set by rule of the authority.]

36 (3) Persons who have been emancipated pursuant to ORS 419B.558 or who have reached the age
 37 of consent for medical care pursuant to ORS 109.640 may sign those documents on their own behalf
 38 otherwise requiring the signatures of parents under subsection (1) of this section.

39 [(4) The administrator shall conduct a primary evaluation of the records submitted pursuant to
 40 subsection (1) of this section to determine whether the child is entitled to begin attendance by reason
 41 of having submitted a document that complies with the requirements of subsection (1) of this section.]

42 [(5) If the records do not meet the initial minimum requirements established by rule, the child may
 43 not be allowed to attend until the requirements are met. If the records meet the initial minimum re-
 44 quirements, the child shall be allowed to attend.]

45 [(6) At the time specified by the authority by rule, records for children meeting the initial minimum

1 requirements and records previously on file shall be reviewed for completion of requirements by the
 2 administrator to determine whether the child is entitled to continue in attendance. If the records do not
 3 comply, the administrator shall notify the local health department and shall transmit any records con-
 4 cerning the child's immunization status to the local health department.]

5 [(7) The local health department shall provide for a secondary evaluation of the records to deter-
 6 mine whether the child should be excluded for noncompliance with the requirements stated in sub-
 7 section (1) of this section. If the child is determined to be in noncompliance, the local health department
 8 shall issue an exclusion order and shall send copies of the order to the parent or the person who is
 9 emancipated or has reached the age of majority and the administrator. On the effective date of the or-
 10 der, the administrator shall exclude the child from the school or facility and not allow the child to at-
 11 tend the school or facility until the requirements of this section have been met.]

12 [(8) The administrator shall readmit the child to the school or facility when in the judgment of the
 13 local health department the child is in compliance with the requirements of this section.]

14 [(9)] (4) The administrator shall be responsible for updating the document described in sub-
 15 section (1)(a) of this section as necessary to reflect the current status of the immunization of the
 16 child and the time at which the child comes into compliance with immunizations against the
 17 restrictable diseases prescribed by rules of the authority pursuant to ORS 433.273.

18 [(10)] (5) Nothing in this section shall be construed as relieving agencies, in addition to school
 19 districts, which are involved in the maintenance and evaluation of immunization records on April
 20 27, 1981, from continuing responsibility for these activities.

21 [(11)] (6) All documents [required by] **requested under** this section shall be on forms approved
 22 or provided by the authority.

23 [(12)] (7) In lieu of signed documents from practitioners, the authority may accept immunization
 24 record updates using practitioner documented immunization records generated by electronic means
 25 or on unsigned practitioner letterhead if the authority determines such records are accurate.

26 [(13)] (8) As used in this section:

27 (a) "Newly entering child" means a child who is initially attending:

28 (A) A facility in this state;

29 (B) A school at the entry grade level;

30 (C) Either a school at any grade level or a facility from homeschooling; or

31 (D) A school at any grade level or a facility after entering the United States from another
 32 country.

33 (b) "Transferring child" means a child moving from:

34 (A) One facility to another facility;

35 (B) One school in this state to another school in this state when the move is not the result of
 36 a normal progression of grade level; or

37 (C) A school in another state to a school in this state.

38 **SECTION 5.** ORS 433.269 is amended to read:

39 433.269. (1) A local public health authority shall ensure that immunizations required under ORS
 40 433.282 and 433.283 and the rules adopted pursuant to ORS 433.273 for [attendance at] a school,
 41 children's facility or post-secondary educational institution are available through local health care
 42 providers or the local public health authority or its contractors:

43 (a) To the entire population of the area served by the local public health authority in convenient
 44 areas and at convenient times.

45 (b) Regardless of whether a child or student is able to pay for the immunization.

1 (2)(a) Each local public health authority, school and children’s facility shall report annually to
2 the Oregon Health Authority on:

3 (A) The number of children in the area served by the local public health authority, school or
4 children’s facility; and

5 (B) The number of children in the area served by the local public health authority, school or
6 children’s facility who are susceptible to restrictable disease as prescribed by the Oregon Health
7 Authority’s rules pursuant to ORS 433.273.

8 (b) Each school and children’s facility shall report annually to the Oregon Health Authority on
9 the number of children in the area served by the school or children’s facility who are in attendance
10 at the school or children’s facility [*conditionally because of*] **with** an incomplete immunization
11 schedule.

12 (c) Each local public health authority shall make available to each school and children’s facility
13 in the area served by the local public health authority data on the immunization rate, by disease,
14 of children in the area. Upon request, the Oregon Health Authority shall assist local public health
15 authorities in compiling data for purposes of this paragraph.

16 (d) A child exempted under ORS 433.267 is susceptible to restrictable disease for purposes of this
17 subsection.

18 (3)(a) For the purpose of providing parents with the information necessary to protect their
19 children’s health, each school and children’s facility shall make available the information reported
20 and received by the school and children’s facility pursuant to subsection (2) of this section:

21 (A) At the main office of the school or children’s facility;

22 (B) On the school’s or school district’s website or on the children’s facility’s website, if avail-
23 able; and

24 (C) To the parents of the children who attend the school or children’s facility, in the form of a
25 paper document or electronic communication that includes the information in a clear and easy to
26 understand manner.

27 (b) The information required to be made available under paragraph (a) of this subsection must
28 be made available at the beginning of each school year [*and not later than one month after the date*
29 *that children may be excluded as provided by ORS 433.267*].

30 (4) The administrator of a school or children’s facility shall maintain immunization records of
31 children, including children who are in attendance at the school or children’s facility [*conditionally*
32 *because of*] **with** an incomplete immunization schedule and children who are exempted as described
33 in ORS 433.267 (1)(b) and (c).

34 **SECTION 6.** ORS 433.273 is amended to read:

35 433.273. The Oregon Health Authority shall adopt rules pertaining to the implementation of ORS
36 433.235 to 433.284, which shall include, but need not be limited to:

37 (1) The definition of “restrictable” disease;

38 (2) The required immunization against diseases;

39 (3) The time schedule for immunization;

40 (4) The approved means of immunization;

41 [(5) *The procedures and time schedule whereby children may be excluded from attendance in*
42 *schools or children’s facilities under ORS 433.267 (1)(b) and (c), provided that the authority includes*
43 *as part of those procedures service of notice to parents;*]

44 [(6)] (5) The manner in which immunization records for children are established, evaluated and
45 maintained;

1 [(7)] **(6)** Exemptions for schools and children’s facilities, including exemptions from the reporting
2 requirements of ORS 433.269 (2) and exemptions from the requirement under ORS 433.269 (3) to make
3 information available;

4 [(8)] **(7)** The implementation of ORS 433.282 and 433.283;

5 [(9)] **(8)** The process for approving a vaccine educational module;

6 [(10)] **(9)** Criteria for a vaccine educational module, including the requirement that a vaccine
7 educational module present information that is consistent with information published by the Centers
8 for Disease Control and Prevention concerning:

9 (a) Epidemiology;

10 (b) The prevention of disease through the use of vaccinations; and

11 (c) The safety and efficacy of vaccines; and

12 [(11)] **(10)** Documentation required to verify completion of a vaccine educational module, in-
13 cluding the qualifications of persons who may certify the completion.

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