

# COVID-19 RELIEF ACT OF 2021

## I. LEGISLATIVE POLICIES

It is the policy of the State of \_\_\_\_\_ always to protect human rights and constitutional liberties including during a public health crisis or other state of emergency.

It is the policy of the State of \_\_\_\_\_ that the executive, legislative, and judicial branches must always act in a nondiscriminatory manner and must meet the requirements of necessity and proportionality to comport with due process including during a public health crisis or other state of emergency.

It is the policy of the State of \_\_\_\_\_ always to safeguard children's education to assure proper academic, cognitive, and social development including during a public health crisis or other state of emergency.

It is the policy of the State of \_\_\_\_\_ to safeguard medical autonomy, privacy, and liberty as to all persons, which includes protecting the public from coercive COVID-19 vaccination and disclosure of vaccination or immunity status. All persons may choose to receive vaccinations or not and to wear a face covering or mask or not as a matter of medical privacy and liberty.

It is the policy of the State of \_\_\_\_\_ to protect individual liberties including freedom of trade and commerce, freedom of religion, and the rights of free speech, assembly, petition, and protest from unnecessary restrictions.

It is the policy of the State of \_\_\_\_\_ to safeguard public health and liberty in a reasonable and balanced manner and to curtail individual liberties only to the extent necessary to protect the public health and only where a direct threat can be shown to justify such curtailment. Any curtailment of liberty to further public health must be medically necessary and furthered by the least intrusive means possible.

It is the policy of the State of \_\_\_\_\_ to prohibit all forms of wrongful discrimination.

Nothing in this Act is intended to alter valid restrictions of activities relative to persons whose activities pose a direct threat to others where the direct threat cannot be eliminated or reduced by reasonable accommodation.

Nothing in this Act is intended to alter common law or statutory penalties and remedies for negligent or intentional transmission of a communicable disease to another person.

The provisions of this Act are intended to further these policies.

## **II. LEGISLATIVE FINDINGS**

The State of \_\_\_\_\_ finds that in certain states of emergency that threaten the life of the people the government must act swiftly and that in all circumstances certain procedures must be followed to assure that fundamental rights are never disregarded or suspended.

The State of \_\_\_\_\_ finds that children are developmentally vulnerable and experience critical periods of academic, cognitive, and social development that are finite in nature and limited in duration.

The State of \_\_\_\_\_ finds that in-person education is far superior to education by non-traditional means such as remote education on digital platforms, virtual classes at home, and e-learning.

The State of \_\_\_\_\_ finds that children’s academic, cognitive, and social development may be irreparably harmed when children are deprived of in-person education and that children who are less privileged socioeconomically face exacerbated risks to their development.

The State of \_\_\_\_\_ finds that the risks to children presented by the COVID-19 pandemic are outweighed by the risks to their academic, cognitive, and social development created by deprivation of in-person education.

The State of \_\_\_\_\_ finds that numerous individual liberty rights secured by the United States Constitution and the \_\_\_\_\_ Constitution have been unnecessarily and oppressively infringed by certain COVID-19 restrictions and emergency measures.

The State of \_\_\_\_\_ finds that the risks to individual liberty, freedom of speech and protest, religious freedom, commerce, individual autonomy, and self-actualization outweigh the risks presented by the COVID-19 pandemic when individuals are unnecessarily and oppressively restricted from exercising protected constitutional rights or any other liberty interest.

The State of \_\_\_\_\_ finds that face coverings and masks create health risks by limiting the ability to breathe naturally and fully and create other harmful known and unknown risks, including antisocial effects, and that children are especially vulnerable to such harmful effects.

## **III. DEFINITIONS**

(a) “Persons” means natural persons, including minor and incapacitated persons. “Minor persons” means persons who have not reached the age of majority. “Incapacitated persons” means persons who have reached the age of majority but are unable to make or communicate decisions concerning their medical autonomy, physical health, safety, or self-care, which includes the decision whether to receive a COVID-19 vaccination.

(a) "Governmental entity" means any unit of state or local government including, but not limited to, the governor, state agencies, counties, cities, towns, political subdivisions, boards, departments, commissions, and special districts and includes all agents, contractors, and employees of any government entity.

(b) "Business affiliation" means any company contracting with or doing business with the State of \_\_\_\_\_ or a government entity or receiving public funds through any means including contracts, grants, loans, or other disbursements of taxpayer money from the State of \_\_\_\_\_ or a government entity and includes all agents, contractors, and employees of any company.

(c) "Company" means any corporation, limited liability corporation, nonprofit corporation, partnership, limited partnership, limited liability partnership, business trust, joint venture, domestic or foreign sole proprietorship, other domestic or foreign entity or business association, or any other business organization and includes any subsidiary or parent company of any business organization. "Company" includes private schools and universities and all other forms of business organizations.

(d) "Discrimination" means the following actions based on a person's COVID-19 vaccination or immunity status or refusal to disclose vaccination or immunity status, failure or refusal to wear a face covering or mask, or exercise of the person's right to engage in commerce, practice religion, or engage in free speech, assembly, petition, protest, or any other right: (1) Refusal to hire, failure to promote, reassignment with significantly different responsibilities, reduction in pay, significant change in benefits, or employment termination; (2) Refusal to allow any person to enter, matriculate to, or patronize any establishment or business organization; (3) Refusal to admit any person into school, childcare facility, sport activity, or any other extracurricular activity; (4) Refusal to allow any person to utilize any form of public or mass transit including air, land, and sea travel; and (5) Any other action that deprives a person of the necessities of life or government services including, but not limited to, police, fire, and mail services.

(e) "Direct threat" means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a direct threat shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include: (1) The duration of the risk; (2) The nature and severity of the potential harm; (3) The likelihood that the potential harm will occur; and (4) The imminence of the potential harm.

(f) "Face covering or mask" means a natural or synthetic fabric that covers the nose and mouth and is secured to the head with ties, straps, or loops over the ears to affix the face covering or mask to the face.

#### **IV. STATE OF EMERGENCY PROCEDURES AND PROVISIONS**

To the extent that the government must act swiftly to abate a public health crisis or other emergency, its emergency powers should be time-barred and exercised on a temporary basis only with the aim of restoring a state of normalcy as soon as possible.

(a) The governor may declare a state of emergency by executive order in exigent circumstances to protect the public health and safety. Any such executive order must be publicly and officially announced in all languages necessary to inform all members of the public of the state of emergency fully and fairly. If the governor finds that a state of emergency is no longer necessary less than 30 days after the declaration of a state of emergency, the governor must issue an executive order terminating the state of emergency immediately.

(b) The legislature may terminate a state of emergency by a majority vote of each chamber at any time.

(c) All laws and orders enacted on an emergency basis must expire or be subject to renewal no later than 30 days from the promulgation of the law or issuance of the order.

(d) All states of emergency declared by the governor automatically expire after 30 days unless renewed by a majority vote of each chamber of the legislature prior to expiration. If the legislature is unable to convene prior to the 30-day expiration date, the state of emergency and orders issued pursuant thereto will be extended automatically in 14-day increments or until the legislature is able to convene to vote on a renewal, whichever comes first. Members of the legislature are exempt from emergency orders that interfere with their ability to travel or otherwise execute their legislative duties.

(e) All laws and orders enacted on an emergency basis must not be arbitrary or unreasonable, must be interpreted strictly, and must be clear and accessible to the public.

(f) All laws and orders enacted on an emergency basis must be necessary to protect the public and must be narrowly tailored to meet the public purpose without unnecessarily curtailing individual rights.

(g) All laws and orders enacted on an emergency basis must be proportionate to the interests at stake and must be the least intrusive option to further the purpose of the law or order.

(h) All laws and orders enacted on an emergency basis must not discriminate against any person or class of people where such discrimination would be unlawful in the absence of a state of emergency.

(i) All fines or punishment for noncompliance with any law or order enacted on an emergency basis must be reasonable and proportionate to the seriousness of the offense. Consideration must be given to the totality of the circumstances that led to the noncompliance.

(j) All laws and orders enacted on an emergency basis are subject to judicial review to assure compliance with constitutional and other rights. Judicial review must not be denied even in a state of emergency. In any challenge to, or legal dispute arising from, any law or order enacted on an emergency basis the governor, legislature, court or other

government official or entity responsible for the law or order bears the burden of proof on the legality of the law or order.

(k) All persons who are responsible for violations of others' rights during a state of emergency may be criminally or civilly punished after the emergency abates, and all statutes of limitation are tolled during the pendency of the state of emergency.

## **V. OPEN SCHOOLS**

The State of \_\_\_\_\_ hereby mandates that all public schools and universities that receive any state funding or disbursement of state taxpayer money open their facilities for in-person education notwithstanding the COVID-19 pandemic.

Any public school or university that violates this section is subject to immediate revocation of government funding, support, accreditation, licensing, and all other authority to operate and must cease operations immediately.

All schools and universities remain authorized to protect students, staff, and personnel from other students, staff, personnel, or any other person who poses a direct threat.

## **VI. VACCINATION, VACCINE PASSPORTS, AND PROOF OF IMMUNITY STATUS**

The State of \_\_\_\_\_, all of its government entities and business affiliations, and all public and private companies including all public and private schools and universities are prohibited from requiring any person to receive a COVID-19 vaccination or to possess a COVID-19 immunity passport, immunity pass, or other evidence certifying COVID-19 vaccination or immunity status. The persons and entities subject to this section are prohibited from discriminating against any person based on non-receipt of a COVID-19 vaccination or failure to possess a COVID-19 immunity passport, immunity pass, or other evidence certifying vaccination or immunity status, whether the person's medical prerogative is based on religion, personal philosophy, a medical exemption, privacy, or any other reason.

No minor person may be required to receive a COVID-19 vaccination absent legally binding substituted consent by all parents with authority over the child's medical care or a legally recognized and official guardian of such minor person. No incapacitated person may be required to receive a COVID-19 vaccination absent legally binding substituted consent by a legally recognized and official guardian of such incapacitated person.

The State of \_\_\_\_\_ and all of its government entities may not enter into a contract or give a loan, grant, or any other disbursement of taxpayer money to a business affiliation that requires a person to receive a COVID-19 vaccination or to possess a COVID-19 immunity passport, immunity pass, or other evidence certifying vaccination or immunity status.

A business affiliation that violates this section materially breaches its contract with the State of \_\_\_\_\_ or government entity, rendering the contract voidable by the State of \_\_\_\_\_ or government entity.

A public or private company that violates this section is subject to revocation of its accreditation, licenses, permits, and all other government authority to operate.

## **VII. FIRST AMENDMENT RIGHTS AND FREE COMMERCE**

The State of \_\_\_\_\_ hereby prohibits all governmental entities, business affiliations, and public and private companies from interfering with individual rights to practice religion, engage in commerce, or exercise the right of expression through speech, assembly, petition, or protest on account of risks presented by the COVID-19 pandemic and also prohibits discrimination against any person for exercising the aforementioned rights or any other right on account of risks presented by the COVID-19 pandemic.

The State of \_\_\_\_\_ and all of its government entities may not enter into a contract or give a loan, grant, or any other disbursement of taxpayer money to a business affiliation that restricts any person from exercising the aforementioned constitutional rights or any other liberty right secured by the United States Constitution or \_\_\_\_\_ Constitution on account of risks presented by the COVID-19 pandemic.

A business affiliation that violates this section materially breaches its contract with the State of \_\_\_\_\_ or government entity, rendering the contract voidable by the State of \_\_\_\_\_ or government entity.

A public or private company that violates this section is subject to revocation of its accreditation, licenses, permits, and all other government authority to operate.

## **VIII. FACE COVERINGS AND MASKS**

The State of \_\_\_\_\_ and all of its government entities and business affiliations are prohibited from requiring any person to wear a face covering or mask for the purpose of preventing the spread of COVID-19 absent clear and convincing evidence of a direct threat and are also prohibited from discriminating against any person based on failure or refusal to wear a face covering or mask.

The State of \_\_\_\_\_ and all of its government entities may not enter into a contract or give a loan, grant, or any other disbursement of taxpayer money to a business affiliation that requires any person to wear a face covering or mask to prevent the spread of COVID-19.

A business affiliation that violates this section materially breaches its contract with the State of \_\_\_\_\_ or government entity, rendering the contract voidable by the State of \_\_\_\_\_ or government entity.

A public or private company that violates this section is subject to revocation of its accreditation, licenses, permits, and all other government authority to operate.

**IX. CONSTRUCTION AND SEVERABILITY**

The provisions of this Act shall be construed liberally to accomplish the policies expressed herein. The provisions of this Act are severable. If any provision of this Act or the application thereof is held invalid, the invalidity does not affect other provisions or applications of the Act, which remain enforceable.

**X. EFFECTIVE DATE**

This Act is effective immediately upon its promulgation.