

By Senator Burton

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1                   A bill to be entitled  
2           An act relating to protection from discrimination  
3           based on health care choices; repealing s. 112.0441,  
4           F.S., relating to prohibiting public employers from  
5           imposing COVID-19 vaccination mandates; amending s.  
6           381.00316, F.S.; providing legislative intent and  
7           findings; defining terms; prohibiting business  
8           entities and governmental entities from requiring  
9           COVID-19 testing to gain access to, entry upon, or  
10          service from such entities; prohibiting such entities  
11          from requiring persons to provide certain  
12          documentation or requiring COVID-19 testing as a  
13          condition of contracting, hiring, promotion, or  
14          continued employment; prohibiting business and  
15          governmental entities from refusing to hire persons,  
16          discharging persons, depriving or attempting to  
17          deprive persons of employment opportunities, adversely  
18          affecting persons with respect to employment, or  
19          otherwise discriminating against any person based on  
20          knowledge or belief of a person's COVID-19 vaccination  
21          or postinfection recovery status or failure to take a  
22          COVID-19 test; prohibiting such entities from  
23          requiring persons to wear face coverings in order to  
24          gain access to, entry upon, services from, or  
25          admission to such entities or from otherwise  
26          discriminating against persons based on their refusal  
27          to wear a facial covering; providing exceptions;  
28          providing administrative penalties; authorizing the  
29          Department of Legal Affairs to take specified actions

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30 for purposes of conducting investigations or  
31 proceedings; requiring collected fines to be deposited  
32 in the General Revenue Fund; providing construction;  
33 providing that certain terminated employees are  
34 eligible for reemployment assistance; repealing s.  
35 381.00317, F.S., relating to prohibiting private  
36 employers from imposing COVID-19 vaccination mandates;  
37 amending s. 381.00319, F.S.; revising definitions;  
38 revising provisions related to the prohibition on  
39 COVID-19-related mandates by educational institutions;  
40 prohibiting educational institutions from requiring a  
41 person to provide certain documentation or requiring a  
42 COVID-19 test to gain admission to, access to, entry  
43 upon, or service from such institutions or otherwise  
44 discriminating against any person based on such  
45 person's COVID-19 vaccination or postinfection  
46 recovery status or failure to take a COVID-19 test;  
47 prohibiting educational institutions from requiring  
48 persons to wear face coverings; from denying a person  
49 access to, entry upon, services from, or admission to  
50 such institutions; or from otherwise discriminating  
51 against persons based on their refusal to wear a  
52 facial covering; providing exceptions; providing  
53 administrative penalties; authorizing the Department  
54 of Health to take specified actions for purposes of  
55 conducting investigations or proceedings; requiring  
56 collected fines to be deposited in the General Revenue  
57 Fund; providing construction; creating s. 395.1057,  
58 F.S.; prohibiting hospitals from interfering with

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59 patients' right to choose COVID-19 treatment  
60 alternatives if certain conditions are met; providing  
61 for disciplinary action; creating s. 408.833, F.S.;  
62 defining terms; requiring the Agency for Health Care  
63 Administration and the Department of Health to jointly  
64 develop standards for the appropriate use of facial  
65 coverings in health care settings by a specified date;  
66 requiring that such standards be posted on the  
67 agency's and department's respective websites in a  
68 specified manner; requiring their websites to include  
69 a link for reporting related complaints; requiring the  
70 agency and department to adopt rules; providing for  
71 emergency rulemaking; requiring health care providers  
72 and certain health care practitioners to establish  
73 facial covering policies and procedures by a specified  
74 date; providing requirements for such policies and  
75 procedures; requiring health care providers and health  
76 care practitioners to submit their facial covering  
77 policies to the agency or department, as applicable,  
78 for approval; requiring health care providers and  
79 health care practitioners to make such policies and  
80 procedures available to the agency or department, as  
81 applicable, upon request and easily accessible on  
82 their respective websites; creating s. 456.62, F.S.;  
83 requiring health care practitioners treating patients  
84 diagnosed with COVID-19 to obtain patients' informed  
85 consent before prescribing any medications for  
86 treatment of COVID-19; providing a requirement for  
87 obtaining such informed consent; requiring health care

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88 practitioners to include certain information and use  
89 their best clinical judgment when making certain  
90 determinations related to alternative medications for  
91 treatment of COVID-19; requiring health care  
92 practitioners to indicate certain information in their  
93 patients' medical records; providing construction;  
94 amending s. 465.0266, F.S.; exempting certain  
95 pharmacists from disciplinary action under certain  
96 circumstances; amending s. 1002.20, F.S.; conforming  
97 provisions to changes made by the act; revising the  
98 date of the future repeal of certain provisions;  
99 providing an effective date.

100

101 Be It Enacted by the Legislature of the State of Florida:

102

103 Section 1. Section 112.0441, Florida Statutes, is repealed.

104 Section 2. Section 381.00316, Florida Statutes, is amended  
105 to read:

106 381.00316 Discrimination based on COVID-19 vaccination  
107 status; prohibition vaccine documentation.-

108 (1) (a) It is the intent of the Legislature that Floridians  
109 be free from mandated facial coverings, COVID-19 vaccination  
110 mandates of any kind, and discrimination based on COVID-19  
111 vaccination status, and receive adequate information regarding  
112 treatment alternatives for COVID-19.

113 (b) The Legislature finds and declares that society is  
114 harmed by discrimination based on COVID-19 vaccination status  
115 because healthy persons are deprived of participating in society  
116 and accessing employment opportunities. The Legislature further

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117 finds and declares that remedies to prevent such discrimination  
118 are in the best interest of this state.

119 (2) As used in this section, the term:

120 (a) "Business entity" has the same meaning as in s. 606.03.  
121 The term also includes a charitable organization as defined in  
122 s. 496.404, a corporation not for profit as defined in s.  
123 617.01401, a private club, or any other business operating in  
124 this state.

125 (b) "COVID-19" means the novel coronavirus identified as  
126 SARS-CoV-2; any disease caused by SARS-CoV-2, its viral  
127 fragments, or a virus mutating therefrom; and all conditions  
128 associated with the disease which are caused by SARS-CoV-2, its  
129 viral fragments, or a virus mutating therefrom.

130 (c) "Department" means the Department of Legal Affairs.

131 (d) "Governmental entity" means the state or any political  
132 subdivision thereof, including the executive, legislative, and  
133 judicial branches of government; the independent establishments  
134 of the state, counties, municipalities, districts, authorities,  
135 boards, or commissions; or any agencies that are subject to  
136 chapter 286. The term does not include an educational  
137 institution as defined in s. 381.00319.

138 (3)~~(1)~~ A business entity, ~~as defined in s. 768.38 to~~  
139 ~~include any business operating in this state,~~ may not require  
140 ~~any person patrons or customers~~ to provide any documentation  
141 certifying COVID-19 vaccination or postinfection recovery or  
142 require a COVID-19 test to gain access to, entry upon, or  
143 service from the business operations in this state or as a  
144 condition of contracting, hiring, promotion, or continued  
145 employment from the business entity. A business entity may not

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146 refuse to hire, or discharge, a person; deprive or attempt to  
147 deprive a person of employment opportunities; adversely affect a  
148 person's status as an employee or as an applicant for  
149 employment; or otherwise discriminate against a person based on  
150 knowledge or belief of the person's COVID-19 vaccination or  
151 postinfection recovery status or a person's failure to take a  
152 COVID-19 test. This subsection does not otherwise restrict  
153 businesses from instituting screening protocols consistent with  
154 authoritative or controlling government issued guidance to  
155 protect public health.

156 (4)(2) A governmental entity as defined in s. 768.38 may  
157 not require any person persons to provide any documentation  
158 certifying COVID-19 vaccination or postinfection recovery or  
159 require a COVID-19 test to gain access to, entry upon, or  
160 service from the governmental entity's operations in this state  
161 or as a condition of contracting, hiring, promotion, or  
162 continued employment from the governmental entity. A  
163 governmental entity may not refuse to hire, or discharge, a  
164 person; deprive or attempt to deprive a person of employment  
165 opportunities; adversely affect a person's status as an  
166 employee; or otherwise discriminate against a person based on  
167 the knowledge or belief of the person's COVID-19 vaccination or  
168 postinfection recovery status or a person's failure to take a  
169 COVID-19 test.

170 (5) A business entity or governmental entity may not  
171 require a person to wear a face mask, a face shield, or any  
172 other facial covering that covers the mouth and nose. A business  
173 entity or governmental entity may not deny any person access to,  
174 entry upon, service from, or admission to such entity or

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175 otherwise discriminate against a person based on such person's  
176 refusal to wear a face mask, a face shield, or any other facial  
177 covering that covers the mouth and nose. This subsection does  
178 not apply to:

179 (a) A health care provider or health care practitioner as  
180 those terms are defined in s. 408.833, provided such health care  
181 provider or health care practitioner is in compliance with that  
182 section.

183 (b) A business entity or governmental entity when a face  
184 mask, a face shield, or any other facial covering that covers  
185 the mouth and nose is required safety equipment consistent with  
186 occupational or laboratory safety requirements ~~This subsection~~  
187 ~~does not otherwise restrict governmental entities from~~  
188 ~~instituting screening protocols consistent with authoritative or~~  
189 ~~controlling government-issued guidance to protect public health.~~

190 ~~(3) An educational institution as defined in s. 768.38 may~~  
191 ~~not require students or residents to provide any documentation~~  
192 ~~certifying COVID-19 vaccination or postinfection recovery for~~  
193 ~~attendance or enrollment, or to gain access to, entry upon, or~~  
194 ~~service from such educational institution in this state. This~~  
195 ~~subsection does not otherwise restrict educational institutions~~  
196 ~~from instituting screening protocols consistent with~~  
197 ~~authoritative or controlling government-issued guidance to~~  
198 ~~protect public health.~~

199 (6) (a) (4) The department may impose an administrative a  
200 fine not to exceed \$5,000 for each individual and separate per  
201 violation of this section.

202 (b) For purposes of conducting an investigation or a  
203 proceeding, the department may administer oaths, take

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204 depositions, make inspections when authorized by law, issue  
205 subpoenas supported by affidavit, serve subpoenas and other  
206 process, and compel the attendance of witnesses and the  
207 production of books, papers, documents, and other evidence.  
208 Challenges to and enforcement of subpoenas or orders shall be in  
209 accordance with s. 120.569.

210 (c) Fines collected pursuant to this section must be  
211 deposited into the General Revenue Fund.

212 (7) This section does not limit the right of the person  
213 aggrieved by a violation of this section to recover damages or  
214 other relief under any other applicable law.

215 (8) If a governmental entity fails to comply with  
216 subsection (4), an employee terminated based on such  
217 noncompliance may be eligible for reemployment assistance under  
218 chapter 443 in addition to any other remedy available to the  
219 employee for a violation of this section.

220 ~~(5) This section does not apply to a health care provider~~  
221 ~~as defined in s. 768.38; a service provider licensed or~~  
222 ~~certified under s. 393.17, part III of chapter 401, or part IV~~  
223 ~~of chapter 468; or a provider with an active health care clinic~~  
224 ~~exemption under s. 400.9935.~~

225 (9)~~(6)~~ The department may adopt rules pursuant to ss.  
226 120.536 and 120.54 to implement this section.

227 Section 3. Section 381.00317, Florida Statutes, is  
228 repealed.

229 Section 4. Section 381.00319, Florida Statutes, is amended  
230 to read:

231 381.00319 Prohibition on mask mandates and COVID-19  
232 vaccination and testing mandates for educational institutions



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233 ~~students.-~~

234 (1) For purposes of this section, the term:

235 (a) "COVID-19" means the novel coronavirus identified as  
236 SARS-CoV-2; any disease caused by SARS-CoV-2, its viral  
237 fragments, or a virus mutating therefrom; and all conditions  
238 associated with the disease which are caused by SARS-CoV-2, its  
239 viral fragments, or a virus mutating therefrom ~~has the same~~  
240 ~~meaning as in s. 381.00317(1).~~

241 (b) "Educational institution" means a public or private  
242 school, including a preschool, elementary school, middle school,  
243 junior high school, secondary school, career center, or  
244 postsecondary school ~~has the same meaning as in s. 112.0441(1).~~

245 ~~(c) "Parent" has the same meaning as in s. 1000.21(5).~~

246 (2) ~~(a) Notwithstanding any other law to the contrary, An~~  
247 ~~educational institution or elected or appointed local official~~  
248 ~~may not impose a COVID-19 vaccination mandate on for any person~~  
249 ~~student.~~

250 (b) An educational institution may not require any person  
251 to provide any documentation certifying COVID-19 vaccination or  
252 postinfection recovery or require a COVID-19 test to gain  
253 admission or access to, entry upon, or service from the  
254 educational institution in this state. An educational  
255 institution may not otherwise discriminate against any person  
256 based on such person's COVID-19 vaccination or postinfection  
257 recovery status or such person's failure to take a COVID-19  
258 test.

259 (3) An educational institution may not require a person to  
260 wear a face mask, a face shield, or any other facial covering  
261 that covers the mouth and nose. An educational institution may

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262 not deny any person access to, entry upon, service from, or  
263 admission to such educational institution or otherwise  
264 discriminate against a person based on such person's refusal to  
265 wear a face mask, a face shield, or any other facial covering  
266 that covers the mouth and nose. This subsection does not apply  
267 to:

268 (a) A health care provider or health care practitioner as  
269 those terms are defined in s. 408.833, provided such health care  
270 provider or health care practitioner is in compliance with that  
271 section.

272 (b) An educational institution when a face mask, a face  
273 shield, or any other facial covering that covers the mouth and  
274 nose is used as required safety equipment in a course of study  
275 consistent with occupational or laboratory safety requirements.

276 (4) (a) The Department of Health may impose an  
277 administrative fine not to exceed \$5,000 for each individual and  
278 separate violation of this section.

279 (b) For the purpose of conducting an investigation or a  
280 proceeding, the Department of Health may administer oaths, take  
281 depositions, make inspections when authorized by law, issue  
282 subpoenas supported by affidavit, serve subpoenas and other  
283 process, and compel the attendance of witnesses and the  
284 production of books, papers, documents, and other evidence.  
285 Challenges to and enforcement of subpoenas or orders shall be in  
286 accordance with s. 120.569.

287 (c) Fines collected pursuant to this section must be  
288 deposited into the General Revenue Fund.

289 (5) This section does not limit the right of the person  
290 aggrieved by a violation of this section to recover damages or

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291 other relief under any other applicable law.

292 ~~(3) A parent of a student, a student who is an emancipated~~  
293 ~~minor, or a student who is 18 years of age or older may bring an~~  
294 ~~action against the educational institution to obtain a~~  
295 ~~declaratory judgment that an act or practice violates this~~  
296 ~~section and to seek injunctive relief. A prevailing parent or~~  
297 ~~student, as applicable, must be awarded reasonable attorney fees~~  
298 ~~and court costs.~~

299 ~~(4) This section expires June 1, 2023.~~

300 Section 5. Section 395.1057, Florida Statutes, is created  
301 to read:

302 395.1057 Patients' right to choose COVID-19 treatment  
303 alternatives.—A hospital may not interfere with a patient's  
304 right to choose COVID-19 treatment alternatives as recommended  
305 by a health care practitioner with privileges at the hospital if  
306 the health care practitioner has obtained informed consent from  
307 the patient in accordance with s. 456.62. Any hospital that  
308 violates this section by preventing a health care practitioner  
309 from exercising his or her sound judgment is subject to agency  
310 disciplinary action under s. 395.1065(2).

311 Section 6. Section 408.833, Florida Statutes, is created to  
312 read:

313 408.833 Facial covering requirements for health care  
314 facilities and health care providers.—

315 (1) As used in this section, the term:

316 (a) "Department" means the Department of Health.

317 (b) "Facial covering" means a cloth or surgical face mask,  
318 a face shield, or any other facial covering that covers the  
319 mouth and nose.

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320 (c) "Health care practitioner" has the same meaning as in  
321 s. 456.001.

322 (d) "Health care provider" means a health care provider as  
323 defined in s. 408.07; a service provider licensed or certified  
324 under s. 393.17, part III of chapter 401, or part IV of chapter  
325 468; or a provider with an active health care clinic exemption  
326 under s. 400.9935.

327 (e) "Office" means an office maintained by a health care  
328 practitioner for the practice of the individual's profession, as  
329 defined in his or her practice act.

330 (2) By August 1, 2023, the agency and the department shall  
331 jointly develop standards for the appropriate use of facial  
332 coverings for infection control in health care settings.

333 (a) The standards must be posted on the agency and  
334 department's respective websites and in a manner easily  
335 accessible from the homepage of their respective websites. Each  
336 website must also include an easily accessible link to report  
337 complaints for violations of the standards.

338 (b) The agency and department shall adopt rules to  
339 implement this subsection and may use emergency rulemaking  
340 procedures established in s. 120.54(4) to adopt such rules. Such  
341 emergency rules are exempt from s. 120.54(4)(c) and shall remain  
342 in effect until replaced by rules adopted under the nonemergency  
343 rulemaking procedures established in chapter 120.

344 (3) (a) By September 1, 2023, each health care provider and  
345 each health care practitioner who operates or manages an office  
346 shall establish facial covering policies and procedures for  
347 their respective health care settings, consistent with the  
348 standards adopted by the agency and the department. The policies

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349 and procedures:

350 1. Must detail the clinical circumstances under which  
351 facial coverings are required to be worn by employees and  
352 contractors; and

353 2. May not require patients, visitors, or guests to wear  
354 facial coverings unless it is clinically necessitated in order  
355 to stop the transmission of a confirmed or suspected infectious  
356 disease, in accordance with the standards adopted by the agency  
357 and department.

358 (b) Health care providers and health care practitioners  
359 shall submit their facial covering policies and procedures to  
360 the agency or department, as applicable, for approval when  
361 applying for initial licensure, license renewal, or change of  
362 ownership. Health care providers and health care practitioners  
363 must make such policies and procedures available to the agency  
364 or department, as applicable, for review upon request, and  
365 easily accessible to the public on the homepages of their  
366 respective websites.

367 Section 7. Section 456.62, Florida Statutes, is created to  
368 read:

369 456.62 Communication of COVID-19 treatment alternatives.-

370 (1) A health care practitioner treating a patient diagnosed  
371 with COVID-19 shall obtain the informed consent of the patient  
372 or the patient's legal representative before prescribing any  
373 medication for the treatment of COVID-19.

374 (2) To obtain informed consent, the health care  
375 practitioner must provide an explanation of alternative  
376 medications for the treatment of COVID-19 and the relative  
377 advantages, disadvantages, and risks associated with such

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378 alternative medications to the extent necessary to allow the  
379 patient or the patient's legal representative to make a prudent  
380 decision regarding treatment.

381 (3) In determining which alternative medications to present  
382 to a patient for purposes of obtaining informed consent, the  
383 health care practitioner must include any medications currently  
384 authorized or approved by the United States Food and Drug  
385 Administration for the treatment of COVID-19 and use his or her  
386 best clinical judgment to identify any alternative medications  
387 that could be reasonably expected to benefit the patient.

388 (4) In providing such information regarding alternative  
389 medications, the health care practitioner shall take into  
390 consideration the physical state of the patient and the  
391 patient's ability to understand the information.

392 (5) A health care practitioner treating a patient diagnosed  
393 with COVID-19 shall indicate on such patient's medical record  
394 the health care practitioner's compliance or noncompliance with  
395 this section.

396 (6) This section does not supersede any other provision of  
397 law regarding informed consent.

398 Section 8. Section 465.0266, Florida Statutes, is amended  
399 to read:

400 465.0266 Common database.—Nothing contained in this chapter  
401 shall be construed to prohibit the dispensing by a pharmacist  
402 licensed in this state or another state of a prescription  
403 contained in a common database, and such dispensing shall not  
404 constitute a transfer as defined in s. 465.026(1)-(6), provided  
405 that the following conditions are met:

406 (1) All pharmacies involved in the transactions pursuant to

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407 which the prescription is dispensed are under common ownership  
408 and utilize a common database.

409 (2) All pharmacies involved in the transactions pursuant to  
410 which the prescription is dispensed and all pharmacists engaging  
411 in dispensing functions are properly licensed, permitted, or  
412 registered in this state or another state.

413 (3) The common database maintains a record of all  
414 pharmacists involved in the process of dispensing a  
415 prescription.

416 (4) The owner of the common database maintains a policy and  
417 procedures manual that governs its participating pharmacies,  
418 pharmacists, and pharmacy employees and that is available to the  
419 board or its agent upon request. The policy and procedures  
420 manual shall include the following information:

421 (a) A best practices model detailing how each pharmacy and  
422 each pharmacist accessing the common database will comply with  
423 applicable federal and state laws, rules, and regulations.

424 (b) The procedure for maintaining appropriate records for  
425 regulatory oversight for tracking a prescription during each  
426 stage of the filling and dispensing process, identifying the  
427 pharmacists involved in filling and dispensing the prescription  
428 and counseling the patient, and responding to any requests for  
429 information made by the board under s. 465.0156.

430 (c) The policy and procedure for providing adequate  
431 security to protect the confidentiality and integrity of patient  
432 information.

433 (d) A quality assurance program designed to objectively and  
434 systematically monitor, evaluate, and improve the quality and  
435 appropriateness of patient care through the use of the common

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436 database.

437

438 Any pharmacist dispensing a prescription has at all times the  
439 right and obligation to exercise his or her independent  
440 professional judgment. Any pharmacist properly dispensing an  
441 alternative medication prescribed for the treatment of COVID-19  
442 is not subject to disciplinary action by the board or the  
443 department based solely on such dispensing. Notwithstanding  
444 ~~other provisions in this section, a~~ no pharmacist licensed in  
445 this state ~~participating in the~~ dispensing ~~of~~ a prescription  
446 pursuant to this section is not ~~shall be~~ responsible for the  
447 acts and omissions of another person participating in the  
448 dispensing process provided such person is not under the direct  
449 supervision and control of the pharmacist licensed in this  
450 state.

451 Section 9. Paragraph (n) of subsection (3) of section  
452 1002.20, Florida Statutes, is amended to read:

453 1002.20 K-12 student and parent rights.—Parents of public  
454 school students must receive accurate and timely information  
455 regarding their child's academic progress and must be informed  
456 of ways they can help their child to succeed in school. K-12  
457 students and their parents are afforded numerous statutory  
458 rights including, but not limited to, the following:

459 (3) HEALTH ISSUES.—

460 (n) *Face covering mandates and quarantine mandates in*  
461 *response to COVID-19.*—

462 1. A district school board, a district school  
463 superintendent, an elected or appointed local official, or any  
464 district school board employee may not:



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465 a. Require a student to wear a face mask, a face shield, or  
466 any other facial covering that fits over the mouth or nose.  
467 However, a parent, at the parent's sole discretion, may allow  
468 his or her child to wear a face mask, a face shield, or any  
469 other facial covering that fits over the mouth or nose. This  
470 prohibition does not apply to safety equipment required as part  
471 of a course of study consistent with occupational or laboratory  
472 safety requirements.

473 b. Prohibit a student from attending school or school-  
474 sponsored activities, prohibit a student from being on school  
475 property, or subject a student to restrictions or disparate  
476 treatment, based on an exposure to COVID-19, so long as the  
477 student remains asymptomatic and has not received a positive  
478 test for COVID-19 as defined in s. 381.00319(1) ~~s. 381.00317(1)~~.

479  
480 A parent of a student, a student who is an emancipated minor, or  
481 a student who is 18 years of age or older may bring an action  
482 against the school district to obtain a declaratory judgment  
483 that an act or practice violates this subparagraph and to seek  
484 injunctive relief. A prevailing parent or student, as  
485 applicable, must be awarded reasonable attorney fees and court  
486 costs.

487 2. A district school board, a district school  
488 superintendent, an elected or appointed local official, or any  
489 school district employee may not prohibit an employee from  
490 returning to work or subject an employee to restrictions or  
491 disparate treatment based on an exposure to COVID-19 so long as  
492 the employee remains asymptomatic and has not received a  
493 positive test for COVID-19 as defined in s. 381.00319(1) ~~s.~~

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494 ~~381.00317(1).~~

495 3. This paragraph expires July ~~June~~ 1, 2023.

496 Section 10. This act shall take effect July 1, 2023.