

SENATE BILL 1¹: STATE GOVERNMENT; AUTOMATIC REPEALER ON THE
PROHIBITION ON STATE AND LOCAL GOVERNMENTS FROM REQUIRING PROOF
OF COVID VACCINATION FOR GOVERNMENT SERVICES; REMOVE

Amending O.C.G.A. § 50-1-11

First signature: Senator Dolezal (27th)

Co-Sponsors: Senator Gooch (51st), Senator Anavitarte (31st), Senator Kennedy (18th), Senator Moore (53rd), Senator Harbin (16th), Senator Payne (54th), Senator Dugan (30th), Senator Hatchett (50th), Senator Hickman (4th), Senator Anderson (24th), Senator Robertson (29th), Senator Goodman (8th), Senator Beach (21st), Senator Brass (28th), Senator Echols (49th), Senator Burns (23rd), Senator Still (48th), Senator Watson (1st), Senator Strickland (17th), Senator Kirkpatrick (32rd), Senator Setzler (37th), Senator Walker (20th), Senator Tillery (19th), Senator Summers (13th), Senator Ginn (47th).

Summary: “A BILL to be entitled an Act to amend Chapter 1 of Title 50 of the O.C.G.A., relating to general provisions regarding state government, so as to remove the automatic repealer on the prohibition on state and local governments from requiring proof of COVID vaccination for government services; to provide for an effective date; to repeal conflicting laws; and for other purposes.”²

Status: This Bill became effective on May 2, 2023.³

TEXT OF SENATE BILL 1⁴

SECTION 1.

Chapter 1 of Title 50 of the Official Code of Georgia Annotated, relating to the general provisions regarding state government, is amended by revising Code Section 50-1-11, relating to proof of COVID vaccination for

¹ S.B. 1, 157th Gen. Assemb., 1st Reg. Sess. (Ga. 2023), *available at* <https://www.legis.ga.gov/legislation/63490> (last visited Oct. 1, 2023).

² 2022-2023 Regular Session S.B. 1, *State Government; automatic repealer on the prohibition on state and local governments from requiring proof of COVID vaccination for government services; remove*, GA. GEN. ASSEMB., <https://www.legis.ga.gov/legislation/63490> (last visited Oct. 1, 2023) [hereinafter S.B. 1 Status History].

³ *Id.*

⁴ S.B. 1, *supra* note 1.

government services not required, as follows:

“50-1-11.

(a) As used in this Code section, the term:

(1) ‘Agency’ means:

(A) Every state department, agency board, bureau, office, commission, public corporation, and authority;

(B) Every county, municipal corporation, school district, or other political subdivision of this state

(C) Every department, agency, board, bureau, office, commission, authority, or similar body of each such county, municipal corporation, or other political subdivision of this state; and

(D) Every city, county, regional, or other authority established pursuant to the laws of this state

(2) ‘COVID-19’ means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), and any mutation or viral fragments thereof, or any disease or condition caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), which was the subject of the public health state of emergency declared by the Governor on March 14, 2020.

(b)(1) No agency shall require proof of COVID-19 vaccination of any person as a condition of providing any service or access to any facility, issuing any license, permit, or other type of authorization, or performing any duty of such agency.

(2) No agency, through any rule, regulation, ordinance, resolution, or other action shall require that any person or private entity require proof of COVID-19 vaccination of any person as a condition of providing any service or access to any facility, or as a condition of such person or private entity's performance of any regular activity by such person or private entity.

(c) This Code section shall not apply if compliance with this Code section would require an agency to violate one or more regulations of the federal Centers for Medicare and Medicaid Services or any federal contractual terms applying to workplace locations in which one or more individuals are working on or in connection with a federal government contract.

~~(d) This Code section shall stand repealed by operation of law on June 30, 2023.”~~

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

All laws and parts of law in conflict with this Act are repealed.

SPONSOR'S RATIONALE

Senator Greg Dolezal sponsored Senate Bill 1 to safeguard citizens from local and state government discrimination based on their COVID-19 vaccination status.⁵ Amid the peak of COVID-19, the public and private healthcare sectors were challenged with mass producing a vaccine to combat COVID-19 at an unprecedented pace.⁶ Within one year of the first recorded COVID-19 case in the United States, the first COVID-19 vaccine became available in December of 2020.⁷ Fueled by a nationwide effort to diminish the rising number of COVID-19 infections in the U.S., the American population was urged to get vaccinated to mitigate the devastating effects of COVID-19.⁸

Simultaneously, a wide resistance to COVID-19 vaccinations rose among the American population due to skepticism concerning the vaccines' rapid development and disbursement throughout the country.⁹ Thus, COVID-

⁵ Georgia State Senate, Legislative day 14, VIMEO, (Feb. 7, 2023), <https://vimeo.com/showcase/9076378?video=796339214>.

⁶ Rodrigo M. Burgos et al., *The race to a COVID-19 vaccine: opportunities and challenges in development and distribution*, NATIONAL LIBRARY OF MEDICINE (Feb. 16, 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7889064/>.

⁷ *FDA Approves First COVID-19 Vaccine*, FDA, <https://www.fda.gov/news-events/press-announcements/fda-approves-first-covid-19-vaccine#:~:text=Since%20Dec; See also CDC Museum COVID-19 Timeline, CDC, https://www.cdc.gov/museum/timeline/covid19.html#:~:text=January%2020%2C%202020,respond%20to%20the%20emerging%20outbreak>.

⁸ See Lucien Bruggeman et al., *Amid darkest days of coronavirus pandemic, unprecedented vaccine effort enters final stage*, ABC NEWS (Dec. 14, 2020), <https://abcnews.go.com/Health/amid-darkest-days-coronavirus-pandemic-unprecedented-vaccine-effort/story?id=74674788>.

⁹ Toby Bolsen & Risa Palm, *Politicization and COVID-19 Vaccine Resistance in the U.S.*, NATIONAL LIBRARY OF MEDICINE (Nov. 10, 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8577882/#bb0400>.

19 vaccination became a focal point for political discussions.¹⁰ These discussions underscored concerns for government-mandated vaccinations, the enforcement of “immunization cards,” and constraints about an infringement on individual rights regarding government intervention in personal health decisions.¹¹ The sponsors of Senate Bill 1 echo these concerns in their support of the Bill’s permanent enactment.¹² Senator Ed Seltzer, for example, points to the repercussions of government intervention in personal health decisions by referencing the dismissal of members of the United States military for their refusal to receive the COVID-19 vaccine.¹³ Nevertheless, Senator Dolezal explains that despite the Bill’s political nature, it is imperative to recognize that the fundamental question this bill addresses is “whether or not the government should deny public services to its citizens based on their COVID-19 vaccination status.”¹⁴

Prior to the enactment of this Bill, any agency, department, or authority providing government services, could deny services to individuals based on their COVID-19 vaccination status.¹⁵ The Bill’s drafters recognized the need for comprehensive coverage and, as a result, used broad language to include every entity that could withhold government services from an individual who was not vaccinated against COVID-19.¹⁶ This broad language was aimed to ensure that the Bill covered all possible scenarios where such denial of services could occur.¹⁷ Furthermore, the Bill’s drafters stressed that the nature of COVID-19 is an evolving science in the sense that COVID-19 is a mutating virus, and thus, legislation should reflect the volatile propensity of virology.¹⁸ Hence, the drafters implemented a sunset clause which would allow the Bill to stand repealed if the circumstances surrounding COVID-19 worsened.¹⁹ This provision was an exercise in caution, giving the government

¹⁰ *Id.*

¹¹ *Id.*

¹² Georgia State Senate, *supra* note 5.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Georgia State Senate, *supra* note 5.

¹⁸ *Id.*

¹⁹ *Id.*

flexibility to reintroduce vaccination requirements if required.²⁰ In Senator Mike Dugan's words, the sunset clause was an exercise of "due diligence" intended to ease concerns of the Bill's opposition; however, given the eroding severity of COVID-19, he argues that the sunset clause should be removed.²¹

To that point, Senator Dolezal contends that Georgia legislation should evolve to account for the overall progress relating to COVID-19.²² He acknowledges that amid the outbreak of COVID-19, there was much uncertainty regarding its long-term effects; however, the current state of COVID-19 indicates that the circumstances no longer warrant the need for the government to implement such stringent measures.²³ He cites Dr. Ashish Jha, White House COVID-19 Response Coordinator, who stated, "since the start of the pandemic, the nature of COVID-19 has changed; it is becoming less of a public health threat, death rates have dropped, and that COVID-19 is becoming less of a risk to citizens."²⁴ Ultimately, Senator Dolezal asserts that the Bill does not function to hinder a citizen's ability to get vaccinated against COVID-19.²⁵ Rather, Senate Bill 1 would allow Georgia citizens to decide on vaccinations in consultation with their doctors without outside pressures.²⁶

OPPOSITION'S RATIONALE

Senator Nan Orrock fronts the opposition against Senate Bill 1 in the interest of protecting public health and condemning the politicization of vaccinations. While the supporters of Senate Bill 1 bear down on the diminished severity of COVID-19, Senator Orrock emphasizes that the decrease in COVID-19 death rates is attributed to the "institution of a massive

²⁰ *Id.*

²¹ *Id.*

²² Georgia State Senate, *supra* note 5.

²³ *Id.*

²⁴ Erika Ryan, "Dr. Ashish Jha on the White House ending the COVID-19 emergency declaration," NPR, (May 9, 2023), <https://www.npr.org/2023/05/09/1175071493/dr-ashish-jha-on-the-white-house-ending-the-covid-19-emergency-declaration>.

²⁵ Georgia State Senate, *supra* note 5.

²⁶ *Id.*

public health effort to vaccinate the population from a dread disease.”²⁷ Furthermore, Senator Orrock condemns the politicization of the COVID-19 vaccine, arguing that Senate Bill 1 is an attempt to further politicize vaccinations as a whole.²⁸ She attributes this to a growing movement in the United States to “demonize vaccinations and do it in the name of individual rights.”²⁹ In parallel, a group of professors from distinguished universities across the nation claim that the COVID-19 pandemic exacerbated anti-vaccine sentiment and “magnified the reach of vaccine misinformation.”³⁰ Senator Orrock also suggests that the Bill’s sunset clause was a political tool by anti-vaccine politicians to “get the camel’s nose under the tent.”³¹ While proponents of Senate Bill 1 consider the sunset clause an exercise of due diligence, Senator Gloria Butler argues that the considerations of Senate Bill 1 have fallen short of due diligence and that the Bill’s enactment will ultimately hurt Georgia’s ability to fight continuing COVID-19 infections.³²

Senator Orrock warns that Senate Bill 1 will “encourage the erosion of other existing vaccination requirements,” backtracking the significant progress that has been made to combat the spread of COVID-19.³³ In fact, Senator Orrock’s warnings have come to pass. WHO Director, General Dr. Tedros Adhanom Ghebreyesus states, “the paradox of the pandemic is that while vaccines against COVID-19 were developed in record time and deployed in the largest vaccination campaign in history, routine immunization programmes were badly disrupted.”³⁴ Senator Orrock adverts

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Richard M. Carpiano et al., *Confronting the evolution and expansion of anti-vaccine activism in the USA in the COVID-19 era*, NATIONAL LIBRARY OF MEDICINE (Mar. 2, 2023), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9981160/>.

³¹ Georgia State Senate, *supra* note 5; *See generally*, Vern McKinley, *Sunrises Without Sunsets*, CATO INSTITUTE, (1995) (discussing the implementation of sunset clauses as an ineffective political tool).

³² *Id.*

³³ *Id.*

³⁴ *Nearly 40 million children are dangerously susceptible to growing measles threat*, WHO, <https://www.who.int/news/item/23-11-2022-nearly-40-million-children-are-dangerously-susceptible-to-growing-measles-threat>; *See also* Olivia Benecke & Sarah Elizabeth DeYoung, *Anti-Vaccine Decision-Making and Measles Resurgence in the United*

to the historically standard practice of vaccinating children against illnesses such as measles.³⁵ Prior to the COVID-19 pandemic, effective vaccinations had nearly eradicated contagious viral diseases; however, with the increased resistance to required vaccinations, the United States has seen a resurgence of once eradicated diseases such as measles.³⁶ During the COVID-19 pandemic, a record high of nearly 40 million children missed a measles vaccine dose during the COVID-19 pandemic.³⁷

IMPLICATIONS IN GEORGIA

The effects of COVID-19 on public health served as a central catalyst for Senate Bill 1, a point underscored by its supporters and opponents alike. Thus, it comes as no surprise that legislation concerning vaccines, inherently intersecting with public health, will likely pose consequences for public health measures. Removing vaccination requirements across certain public sectors may erode existing practices aimed at containing the spread of other disease outbreaks. There exists a correlation between vaccination requirements and increased vaccination rates.³⁸ The successful eradication of measles from the United States in 2000 was largely credited to an effective vaccination program, however recent trends indicate a resurgence of this once-contained disease.³⁹ Community immunity, achieved when more than 95% of a specified population is vaccinated, serves as a pivotal defense against infectious disease outbreaks.⁴⁰ However, Georgia vaccination rates against measles fall below this threshold, with less than 90% of children

States. NATIONAL LIBRARY OF MEDICINE (Jul. 24, 2019).

³⁵ Georgia State Senate, *supra* note 5.

³⁶ *Nearly 40 million children are dangerously susceptible to growing measles threat*, *supra* note 35.

³⁷ *Id.*

³⁸ Michelle M. Mello et al, *Effectiveness of vaccination mandates in improving uptake of COVID-19 vaccines in the USA*, NATIONAL LIBRARY OF MEDICINE (Jul. 8, 2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9270060/>.

³⁹ *History of Measles*, CDC (May 9, 2024), <https://www.cdc.gov/measles/about/history.html>.

⁴⁰ *Measles Cases and Outbreaks*, CDC (Apr. 19, 2024), <https://www.cdc.gov/measles/cases-outbreaks.html> (discussing the requirements to achieve herd immunity); *see also Coronavirus disease (COVID-19): Herd immunity, lockdowns and COVID-19*, WHO (Dec. 31, 2020), <https://www.who.int/news-room/questions-and-answers/item/herd-immunity-lockdowns-and-covid-19>.

vaccinated in 2022-23.⁴¹ Consequently, Senate Bill 1 may exacerbate the challenge of controlling disease outbreaks.

House Bill 3126 reflects analogous notions of Senate Bill 1, and its enactment in South Carolina suggests that Georgia could encounter comparable developments.⁴² South Carolina's Governor, Henry McMaster, signed into law a similar bill prohibiting employers and businesses open to the public from requiring COVID-19 vaccination as a condition of employment or entry.⁴³ Both pieces of legislation echo a particular stance favoring medical autonomy and minimizing COVID-19 related restrictions and monitoring. Setting aside the political ideologies of traditionally Republican states, this is indicative of a broader shift in the region towards promoting personal autonomy. On the other hand, encouraging medical autonomy, as Senator Dolezal advocates for, is likely to bolster highly controversial matters of personal bodily autonomy such as abortions.

LEGISLATIVE GENEALOGY

Senate Bill 1 was entered into the Senate Hopped on January 9, 2023.⁴⁴ Senate read and referred on January 11, 2023.⁴⁵ Senate Committee Favorably Reported By Substitute on February 2, 2023.⁴⁶ Senate second readers took place on February 6, 2023.⁴⁷ Senate third readers was on February 7, 2023.⁴⁸ The Senate Passed/Adopted By Substitute on February 7, 2023.⁴⁹ House First Readers was on February 8, 2023.⁵⁰ House Second Readers was on February

⁴¹ *Id.*

⁴² H.B. 3126, 124th Gen. Assemb., 2021-2022 Sess. (S.C. 2022), available at https://www.scstatehouse.gov/sess124_2021-2022/bills/3126.htm (last visited Sept. 13, 2023).

⁴³ *Id.*

⁴⁴ S.B. 1 Status History, *supra* note 2.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ S.B. 1 Status History, *supra* note 2.

⁵⁰ *Id.*

9, 2023.⁵¹ House Committee Favorably Reported on March 14, 2023.⁵² House Postponed on March 21, 2023.⁵³ House Third Readers was on March 23, 2023.⁵⁴ House Passed/Adopted on March 23, 2023.⁵⁵ Senate Sent to Governor on April 5, 2023.⁵⁶ Senate Date Signed by Governor on May 2, 2023.⁵⁷ The bill came into effect on May 2, 2023.⁵⁸

Prepared by: *Ariana Azaripour*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ S.B. 1 Status History, *supra* note 2.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*