

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-0763.01 Christy Chase x2008

HOUSE BILL 21-1191

HOUSE SPONSORSHIP

Ransom and Van Beber, Baisley, Bockenfeld, Geitner, Hanks, Luck, Lynch, Pelton, Pico, Rich, Sandridge, Soper, Van Winkle, Williams, Woog

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House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROHIBITION AGAINST DISCRIMINATION BASED ON**
102 **THE REFUSAL TO OBTAIN A COVID-19 VACCINE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits an employer, including a licensed health facility, from taking adverse action against an employee or an applicant for employment based on the employee's or applicant's COVID-19 immunization status. The bill allows an aggrieved employee or applicant for employment to file a civil action for injunctive, affirmative, and equitable relief and, if the employer or health facility acted with malice

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

or wanton or willful misconduct or has repeatedly violated the law, the court may also award punitive damages and attorney fees and costs.

Additionally, the bill specifies that the COVID-19 vaccine is not mandatory, that the state cannot require any individual to obtain a COVID-19 vaccine, and that government agencies and private businesses, including health insurers, cannot discriminate against clients, patrons, or customers based on their COVID-19 vaccination status. A person aggrieved by a violation of these prohibitions may file a civil action for injunctive and other appropriate relief and may be awarded punitive damages and attorney fees and costs for wanton, willful, or repeated violations.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the
3 "COVID-19 Immunization Nondiscrimination Act" or "CINDA".

4 **SECTION 2. Legislative declaration.** (1) The general assembly
5 finds and declares that:

6 (a) State law prohibits the Colorado department of public health
7 and environment from imposing any mode of treatment inconsistent with
8 the religious faith or belief of any person;

9 (b) State law also prohibits discriminatory or unfair employment
10 practices, including harassment, refusal to hire, refusal to train, and
11 termination of employment, based upon an employee's race, national
12 origin, sex, sexual orientation, disability, age, or religion;

13 (c) State law protects employees' jobs and civil rights; provides
14 relief for employees wrongly discriminated against, coerced, or
15 discharged from employment; and reflects judicial interpretations of the
16 federal "Civil Rights Act of 1964", Pub.L. 88-352, as amended;

17 (d) The Colorado department of public health and environment
18 acknowledges the right to informed consent for all treatments and
19 procedures; the right to refuse a drug, test, procedure, or treatment; and

1 the right to treatment in a safe setting that is respectful of personal
2 privacy and that recognizes personal dignity, cultural values, and religious
3 beliefs;

4 (e) Under the federal "National Childhood Vaccine Injury Act of
5 1986" (NCVIA), 42 U.S.C. secs. 300aa-1 to 300aa-34, as amended, a
6 person administering a vaccine is not liable in civil court for harm to the
7 patient caused by the administration of the vaccine;

8 (f) The National Academy of Medicine published physician
9 committee reports that acknowledge that there are significant gaps in
10 vaccine safety science, including the need for more biological mechanism
11 studies and methodologically sound epidemiological studies;

12 (g) The NCVIA created the "Vaccine Adverse Event Reporting
13 System" (VAERS), co-administered by the federal centers for disease
14 control and prevention (CDC) and the federal food and drug
15 administration (FDA), which requires health-care providers to report
16 injury, harm, and any adverse event resulting from the administration of
17 a vaccine;

18 (h) The VAERS has received seven hundred forty-nine thousand
19 eight hundred twenty-five vaccine adverse event reports, including ten
20 thousand four hundred thirty from Colorado, since its inception in 1990
21 through September 30, 2019, and receives about thirty thousand reports
22 annually;

23 (i) As of February 20, 2021, the VAERS shows fifteen thousand
24 nine hundred twenty-three reports filed for COVID-19 vaccines alone,
25 with the following reports in the following categories:

26 (I) Urgent care: Three thousand four hundred twenty-one cases;

27 (II) Office visits: Two thousand one hundred ninety-one cases;

- 1 (III) Anaphylaxis: One hundred ninety cases;
- 2 (IV) Bell's palsy: One hundred ninety-eight cases;
- 3 (V) Hospitalizations: One thousand eight hundred sixty-nine
- 4 cases; and
- 5 (VI) Deaths: Nine hundred twenty-nine cases;
- 6 (j) The medical code of ethics for the American Medical
- 7 Association accepts that some individuals have medical, religious, or
- 8 philosophical reasons to not be vaccinated;
- 9 (k) The ethical principle of informed consent to medical
- 10 treatment, which requires the voluntary consent of individuals and parents
- 11 or guardians of minor children prior to the administration of medical
- 12 treatment, is recognized internationally as a human right under the World
- 13 Medical Association (WMA) Declaration of Lisbon on the Rights of the
- 14 Patient, the WMA Medical Ethics Manual, the WMA Declaration of
- 15 Helsinki of 1964, the United Nations Universal Declaration of Human
- 16 Rights of 1948, and the Nuremberg Code of 1947;
- 17 (l) In contrast to most vaccines, which use weakened or
- 18 inactivated versions or components of the disease-causing pathogen to
- 19 stimulate the body's immune response, the COVID-19 vaccine uses
- 20 messenger RNA (mRNA) technology, a process that employs genetic
- 21 material to prompt cells in the body to make proteins to trigger an
- 22 immune response;
- 23 (m) The mRNA technology used in the COVID-19 vaccine shots
- 24 is experimental and has never before been used in widespread human
- 25 vaccination programs;
- 26 (n) Given that the COVID-19 vaccine shots were authorized for
- 27 use starting in December 2020, less than twelve months since the first

1 COVID-19 case was reported in the United States and less than nine
2 months since pharmaceutical manufacturers began researching and
3 developing a vaccine for COVID-19, there has not been time to conduct
4 long-term safety studies of the vaccinations;

5 (o) Moreover, no studies have been conducted on the safety of the
6 COVID-19 vaccine for pregnant women or on potential interactions with
7 other drugs or vaccines;

8 (p) It has been shown that different racial groups have different
9 antibody responses to traditional vaccines, but no studies have been
10 conducted as to the safety of mRNA technology across different racial
11 groups;

12 (q) The Black community, in particular, is acutely aware of the
13 pharmaceutical industry's history of using Black people for medical
14 experimentation;

15 (r) Markers for autoimmunity are now found in more than fifteen
16 percent of the United States population and are steadily rising;

17 (s) Fifty-four percent of the United States population, including
18 children, suffer from at least one chronic illness or disease;

19 (t) Allergies are the sixth leading cause of chronic illness in the
20 United States, resulting in an annual cost in excess of eighteen billion
21 dollars;

22 (u) More than fifty million Americans suffer from allergies each
23 year, and many of those Americans will not be medically able to receive
24 the COVID-19 vaccine without suffering imminent harm;

25 (v) The CDC, FDA, and the vaccine manufacturers all concur that
26 the COVID-19 vaccines will neither prevent infection nor stop viral
27 transmission; and

1 (w) Therefore, it is the intent of the general assembly to enact the
2 "COVID-19 Immunization Nondiscrimination Act", referred to as
3 "CINDA", to prohibit employers, government agencies, educational
4 institutions, and commercial enterprises from taking adverse action or
5 discriminating against employees, applicants for employment, students,
6 or customers who choose to delay or decline the COVID-19 vaccines.

7 **SECTION 3.** In Colorado Revised Statutes, **add** 8-2-131 as
8 follows:

9 **8-2-131. Prohibitions of employer - adverse action based on**
10 **COVID-19 immunization status - civil action - definitions.** (1) AS
11 USED IN THIS SECTION:

12 (a) "ADVERSE ACTION" MEANS:

13 (I) TO REFUSE TO HIRE, TO DISCHARGE, TO REFUSE TO PROMOTE,
14 TO DEMOTE, TO HARASS DURING THE COURSE OF EMPLOYMENT, OR TO
15 DISCRIMINATE IN MATTERS OF COMPENSATION, TERMS, CONDITIONS, OR
16 PRIVILEGES OF EMPLOYMENT AGAINST AN EMPLOYEE; OR

17 (II) ANY OTHER EMPLOYMENT DECISION OR TREATMENT THAT
18 ADVERSELY AFFECTS AN EMPLOYEE.

19 (b) "COVID-19" MEANS THE CORONAVIRUS DISEASE 2019 CAUSED
20 BY THE SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2, ALSO
21 KNOWN AS SARS-CoV-2.

22 (c) "EMPLOYEE" MEANS A PERSON WHO MAY BE PERMITTED,
23 REQUIRED, OR DIRECTED BY ANY EMPLOYER, IN CONSIDERATION OF DIRECT
24 OR INDIRECT GAIN OR PROFIT, TO ENGAGE IN ANY EMPLOYMENT AND
25 INCLUDES AN APPLICANT FOR EMPLOYMENT.

26 (d) "EMPLOYER" MEANS A PERSON TRANSACTING BUSINESS IN
27 COLORADO WHO, AT ANY TIME, EMPLOYS ANOTHER PERSON TO PERFORM

1 SERVICES OF ANY NATURE AND WHO HAS CONTROL OF THE PAYMENT OF
2 WAGES FOR SUCH SERVICES OR IS THE OFFICER, AGENT, OR EMPLOYEE OF
3 THE PERSON HAVING CONTROL OF THE PAYMENT OF WAGES.

4 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
5 EMPLOYER SHALL NOT TAKE ADVERSE ACTION AGAINST AN EMPLOYEE
6 BASED ON THE EMPLOYEE'S COVID-19 IMMUNIZATION STATUS.

7 (3) (a) AN EMPLOYEE AGGRIEVED UNDER THIS SECTION MAY FILE
8 A CIVIL ACTION FOR:

9 (I) INJUNCTIVE RELIEF AGAINST ANY FURTHER VIOLATION;

10 (II) AFFIRMATIVE RELIEF, INCLUDING REINSTATEMENT OR HIRING
11 AND BACK PAY AND LOST BENEFITS FOR THE ENTIRE TIME OF THE
12 VIOLATION WITH INTEREST UP TO TEN PERCENT; AND

13 (III) ANY OTHER EQUITABLE RELIEF THAT MAY BE APPROPRIATE.

14 (b) IN A CIVIL ACTION FILED PURSUANT TO THIS SECTION, A COURT
15 MAY ALSO AWARD:

16 (I) PUNITIVE DAMAGES IF:

17 (A) IT IS DEMONSTRATED BY CLEAR AND CONVINCING EVIDENCE
18 THAT THE EMPLOYER HAS ACTED WITH MALICE OR ACTED WITH WILLFUL
19 AND WANTON MISCONDUCT; OR

20 (B) THE EMPLOYER WAS PREVIOUSLY FOUND, IN A PROCEEDING
21 FOR A VIOLATION OF THIS SECTION, TO HAVE VIOLATED THIS SECTION; AND

22 (II) ATTORNEY FEES AND COSTS IN CONNECTION WITH THE CIVIL
23 ACTION.

24 **SECTION 4.** In Colorado Revised Statutes, **add** 25-1-131 as
25 follows:

26 **25-1-131. COVID-19 vaccinations - not mandatory - civil**
27 **action - definitions.** (1) AS USED IN THIS SECTION:

1 (a) "ADULT" MEANS AN INDIVIDUAL WHO IS EIGHTEEN YEARS OF
2 AGE OR OLDER OR WHO IS AN EMANCIPATED MINOR.

3 (b) "CHILD" MEANS AN UNEMANCIPATED INDIVIDUAL WHO IS
4 UNDER EIGHTEEN YEARS OF AGE.

5 (c) "COVID-19" MEANS THE CORONAVIRUS DISEASE 2019 CAUSED
6 BY THE SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2, ALSO
7 KNOWN AS SARS-CoV-2.

8 (d) "COVID-19 VACCINE" MEANS A VACCINE USED FOR PURPOSES
9 OF INDUCING IMMUNITY AGAINST COVID-19 OR SEVERE ACUTE
10 RESPIRATORY SYNDROME CORONAVIRUS 2 IN HUMANS.

11 (e) "INCAPACITATED PERSON" MEANS AN INDIVIDUAL WHO IS
12 EIGHTEEN YEARS OF AGE OR OLDER AND WHO IS UNABLE TO MAKE OR
13 COMMUNICATE DECISIONS AFFECTING THE INDIVIDUAL'S HEALTH, SAFETY,
14 OR CARE.

15 (f) "INDIVIDUAL IN A PARENTAL RELATIONSHIP WITH THE CHILD"
16 MEANS AN INDIVIDUAL WHO IS A PARENT OR LEGAL GUARDIAN OF A CHILD.

17 (g) "LEGAL GUARDIAN" MEANS AN ADULT WHO IS DESIGNATED BY
18 AN INCAPACITATED PERSON, PRIOR TO THE INCAPACITATION, AS THE
19 PERSON'S LEGAL GUARDIAN OR AN ADULT WHO IS LEGALLY APPOINTED BY
20 A COURT AS THE LEGAL GUARDIAN OF THE INCAPACITATED PERSON.

21 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
22 CONTRARY:

23 (a) No COVID-19 VACCINE SHALL BE MADE A MANDATORY
24 IMMUNIZATION IN THIS STATE;

25 (b) AN ADULT MAY VOLUNTARILY CHOOSE, BUT SHALL NOT BE
26 REQUIRED, TO RECEIVE A COVID-19 VACCINE;

27 (c) A CHILD SHALL NOT BE REQUIRED TO RECEIVE A COVID-19

1 VACCINE UNLESS AN INDIVIDUAL IN A PARENTAL RELATIONSHIP WITH THE
2 CHILD CHOOSES TO HAVE THE CHILD RECEIVE THE COVID-19 VACCINE;

3 (d) AN INCAPACITATED PERSON SHALL NOT BE REQUIRED TO
4 RECEIVE A COVID-19 VACCINE UNLESS THE LEGAL GUARDIAN OF THE
5 INCAPACITATED PERSON CHOOSES TO HAVE THE INCAPACITATED PERSON
6 RECEIVE THE COVID-19 VACCINE;

7 (e) A GOVERNMENT AGENCY, COMMERCIAL ESTABLISHMENT OR
8 ENTERPRISE, SERVICE PROVIDER, OR NONPROFIT ORGANIZATION SHALL NOT
9 DISCRIMINATE AGAINST A CLIENT, PATRON, OR CUSTOMER BASED ON
10 WHETHER THE CLIENT, PATRON, OR CUSTOMER RECEIVED THE COVID-19
11 VACCINE; AND

12 (f) A HEALTH INSURER SHALL NOT CONSIDER WHETHER A PERSON
13 HAS RECEIVED A COVID-19 VACCINE AS A CONDITION FOR ISSUING A
14 HEALTH COVERAGE PLAN TO THE PERSON OR AS A METRIC TO DETERMINE
15 HEALTH INSURANCE PREMIUMS.

16 (3) (a) AN INDIVIDUAL AGGRIEVED UNDER THIS SECTION MAY FILE
17 A CIVIL ACTION FOR:

18 (I) INJUNCTIVE RELIEF AGAINST ANY FURTHER VIOLATION; AND

19 (II) ANY OTHER RELIEF, INCLUDING EQUITABLE RELIEF OR
20 DAMAGES, THAT MAY BE APPROPRIATE.

21 (b) IN A CIVIL ACTION FILED PURSUANT TO THIS SECTION, A COURT
22 MAY ALSO AWARD:

23 (I) PUNITIVE DAMAGES IF:

24 (A) IT IS DEMONSTRATED BY CLEAR AND CONVINCING EVIDENCE
25 THAT THE PERSON THAT VIOLATED THIS SECTION HAS ACTED WITH MALICE
26 OR ACTED WITH WILLFUL AND WANTON MISCONDUCT; OR

27 (B) THE PERSON THAT VIOLATED THIS SECTION WAS PREVIOUSLY

1 FOUND, IN A PROCEEDING FOR A VIOLATION OF THIS SECTION, TO HAVE
2 VIOLATED THIS SECTION; AND

3 (II) ATTORNEY FEES AND COSTS IN CONNECTION WITH THE CIVIL
4 ACTION.

5 **SECTION 5.** In Colorado Revised Statutes, **add 25-3-126** as
6 follows:

7 **25-3-126. Health facilities - prohibit adverse action based on**
8 **COVID-19 immunization status - civil action - definitions.** (1) As
9 USED IN THIS SECTION:

10 (a) "ADVERSE ACTION" MEANS:

11 (I) TO REFUSE TO HIRE, TO DISCHARGE, TO REFUSE TO PROMOTE,
12 TO DEMOTE, TO HARASS DURING THE COURSE OF EMPLOYMENT, OR TO
13 DISCRIMINATE IN MATTERS OF COMPENSATION, TERMS, CONDITIONS, OR
14 PRIVILEGES OF EMPLOYMENT AGAINST AN EMPLOYEE; OR

15 (II) ANY OTHER EMPLOYMENT DECISION OR TREATMENT THAT
16 ADVERSELY AFFECTS AN EMPLOYEE.

17 (b) "COVID-19" MEANS THE CORONAVIRUS DISEASE 2019 CAUSED
18 BY THE SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2, ALSO
19 KNOWN AS SARS-CoV-2.

20 (c) "COVID-19 VACCINE" MEANS A VACCINE USED FOR PURPOSES
21 OF INDUCING IMMUNITY AGAINST COVID-19 OR SEVERE ACUTE
22 RESPIRATORY SYNDROME CORONAVIRUS 2 IN HUMANS.

23 (d) "EMPLOYEE" MEANS A PERSON WHO MAY BE PERMITTED,
24 REQUIRED, OR DIRECTED BY A HEALTH FACILITY, IN CONSIDERATION OF
25 DIRECT OR INDIRECT GAIN OR PROFIT, TO ENGAGE IN ANY EMPLOYMENT
26 AND INCLUDES AN APPLICANT FOR EMPLOYMENT. "EMPLOYEE" INCLUDES
27 A PERSON WITH WHOM THE HEALTH FACILITY CONTRACTS.

1 (e) "HEALTH FACILITY" MEANS A FACILITY LICENSED PURSUANT TO
2 SECTION 25-1.5-103.

3 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A HEALTH
4 FACILITY SHALL NEITHER REQUIRE AN EMPLOYEE, AS A CONDITION OF
5 EMPLOYMENT, TO RECEIVE A COVID-19 VACCINE NOR TAKE ADVERSE
6 ACTION AGAINST AN EMPLOYEE BASED ON THE EMPLOYEE'S COVID-19
7 IMMUNIZATION STATUS.

8 (3) THE DEPARTMENT SHALL NOT REQUIRE A HEALTH FACILITY TO
9 ENSURE THAT THE HEALTH FACILITY'S EMPLOYEES RECEIVE A COVID-19
10 VACCINE.

11 (4) (a) AN EMPLOYEE AGGRIEVED UNDER THIS SECTION MAY FILE
12 A CIVIL ACTION FOR:

13 (I) INJUNCTIVE RELIEF AGAINST ANY FURTHER VIOLATION;

14 (II) AFFIRMATIVE RELIEF, INCLUDING REINSTATEMENT OR HIRING
15 AND BACK PAY AND LOST BENEFITS FOR THE ENTIRE TIME OF THE
16 VIOLATION WITH INTEREST UP TO TEN PERCENT; AND

17 (III) ANY OTHER EQUITABLE RELIEF THAT MAY BE APPROPRIATE.

18 (b) IN A CIVIL ACTION FILED PURSUANT TO THIS SECTION, A COURT
19 MAY ALSO AWARD:

20 (I) PUNITIVE DAMAGES IF:

21 (A) IT IS DEMONSTRATED BY CLEAR AND CONVINCING EVIDENCE
22 THAT THE HEALTH FACILITY HAS ACTED WITH MALICE OR ACTED WITH
23 WILLFUL AND WANTON MISCONDUCT; OR

24 (B) THE HEALTH FACILITY WAS PREVIOUSLY FOUND, IN A
25 PROCEEDING FOR A VIOLATION OF THIS SECTION, TO HAVE VIOLATED THIS
26 SECTION; AND

27 (II) ATTORNEY FEES AND COSTS IN CONNECTION WITH THE CIVIL

1 ACTION.

2 **SECTION 6. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety.