

**HOUSE . . . . . No. 2271**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Paul J. Donato and Andres X. Vargas***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting community immunity.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>2/17/2021</i>
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>2/17/2021</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/18/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/22/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/23/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/25/2021</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>4/12/2021</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>5/10/2021</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	<i>6/14/2021</i>

**HOUSE . . . . . No. 2271**

By Messrs. Donato of Medford and Vargas of Haverhill, a petition (accompanied by bill, House, No. 2271) of Paul J. Donato, Andres X. Vargas and others for legislation to establish an immunization program within the Department of Public Health for certain child care centers, schools, camps and institutions of higher education. Public Health.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act promoting community immunity.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 76 of the General Laws is hereby amended by striking out section  
2 15, as appearing in the 2018 Official Edition, and inserting in place thereof the following  
3 section:-

4 Section 15. All schools shall comply with the requirements established in chapter 111P.

5 SECTION 2. Said chapter 76 is hereby further amended by striking out section 15C, as so  
6 appearing, and inserting in place thereof the following section:-

7 Section 15C. All institutions of higher learning shall comply with the requirements  
8 established in chapter 111P.

9 SECTION 3. Section 15D of said chapter 76 is hereby repealed.

10 SECTION 4. Section 24N of chapter 111 of the General Laws, as appearing in the 2018  
11 Official Edition, is hereby amended by inserting after the word “24M”, in line 32, the following  
12 words:- , and to administer chapter 111P.

13 SECTION 5. The General Laws are hereby amended by inserting after chapter 111O the  
14 following chapter:-

15 CHAPTER 111P.

16 COMMUNITY IMMUNITY.

17 Section 1. This chapter shall be known and may be cited as the Community Immunity  
18 Act.

19 Section 2. As used in this chapter, the following words shall have the following meanings  
20 unless the context clearly requires otherwise:-

21 “Covered program”, (a) a child care center, an early education and care program, a family  
22 child care home, a large family child care home, a public preschool program, or a school-aged  
23 child care program, as defined in section 1A of chapter 15D; (b) a school, whether public, private  
24 or charter, that provides education to students in any combination of grade levels from  
25 kindergarten to grade 12, inclusive, and including, but not limited to, any school activity open to  
26 children who are otherwise instructed in accordance with section 1 of chapter 76; (c) a  
27 recreational camp; or (d) an institution of higher education, whether public or private.

28 “Department”, the department of public health.

29 “Exemption”, written authorization from the department for a participant to be excused  
30 from the schedule.

31 “Herd immunity”, population-wide resistance to the spread of an infectious disease  
32 within that population, resulting from a sufficient percentage of people receiving one or more  
33 immunizations with immunity against the disease.

34 “Immunization”, an inoculation administered for the purpose of making a person resistant  
35 to an infectious disease.

36 “Participant”, a person who engages in 1 or more activities of a covered program through  
37 enrollment or other registration process.

38 “Provider”, a health care provider licensed by an agency, board or division of the  
39 commonwealth who, acting within their scope of practice, may lawfully administer an  
40 immunization.

41 “Responsible adult”, a parent or legal guardian of a participant, a participant who is an  
42 emancipated minor or a participant who has achieved the age of majority.

43 “Schedule”, the immunization administration schedule established by the department and  
44 consistent with generally accepted medical practice.

45 Section 3. No covered program shall enroll a participant whose records do not include:

- 46 (a) documentation of immunizations in accordance with the schedule, or other medical evidence  
47 of immunity against diseases listed on the schedule; (b) an exemption approval letter issued by  
48 the department, consistent with sections 4 through 12, inclusive; (c) evidence that the participant  
49 is in the process of obtaining immunizations with the objective of compliance with the schedule;  
50 (d) for public schools only, evidence that the participant moved into the commonwealth not more  
51 than 90 days before the date of enrollment and the responsible adult is making a good faith effort

52 to obtain the necessary immunization documentation or exemption approval; or (e) evidence that  
53 more than 30 days have elapsed since a responsible adult applied to the department for an  
54 exemption and the department has not responded.

55 Section 4. The two types of immunization exemptions shall be: (a) medical, for a  
56 participant whose medical conditions or circumstances preclude the administration of  
57 immunizations, as determined in the best medical judgment of a provider; and (b) religious, for a  
58 participant who holds, or whose family holds, sincere religious beliefs conflicting with  
59 immunizations. There shall be no other type of exemption.

60 Section 5. The department shall prepare and maintain separate standardized exemption  
61 application forms for medical and religious exemptions. The department shall make the forms  
62 available to the public online and, as necessary, in hard copy; provided, however, that no covered  
63 program shall provide an application form, whether in hard copy or electronically, to a  
64 responsible adult or a participant absent a specific request for an application form from the  
65 responsible adult.

66 Section 6. The department shall include in the medical exemption application form the  
67 following required elements: (a) a checklist of generally accepted contraindications to  
68 immunizations, which checklist shall be completed by a provider; (b) a statement that the  
69 provider has an established provider-patient relationship with the participant; (c) a request for the  
70 signature of the provider; (d) a request for a unique government-issued professional  
71 identification number assigned to the provider; (e) a request for the signature of the responsible  
72 adult; and (f) requests for dates for all signatures.

73           Section 7. The department shall include in the religious exemption application form the  
74 following required elements: (a) a statement that the participant or responsible adult has a sincere  
75 religious belief conflicting with immunizations; (b) a certification that the responsible adult has  
76 provided a complete and accurate copy of the religious exemption application to the participant's  
77 primary health care provider, including the provider's name and contact information; (c) an  
78 acknowledgement of receipt from a provider on the participant's primary health care team; and  
79 (d) a request for the dated signature of the responsible adult. The department shall state on the  
80 application form that the department has determined that refusing to immunize is against public  
81 health policy and may result in serious illness or death of the participant or others. The  
82 department may provide requirements as alternatives to elements (b) and (c) of this section in the  
83 event a participant does not have a primary health care provider.

84           Section 8. The department may add additional elements to the exemption application  
85 forms described in sections 6 and 7; provided, however, that the department shall not require any  
86 elements seeking a participant's or responsible adult's particular religion or a description thereof.

87           Section 9. A responsible adult shall submit a completed exemption application to the  
88 department for review. The department shall determine the method of submission, be it  
89 electronic, hard copy, or both.

90           Section 10. The department shall review each exemption application submitted on a form  
91 described in this chapter. The department shall approve each validly executed and accurately  
92 completed religious exemption application, described in section 7, and each validly and  
93 accurately completed medical exemption application, described in section 6, that identifies one  
94 or more generally accepted contraindication to immunization.

95           Section 11. The department shall issue a letter to each applicant setting forth the  
96 department's determination to approve or deny the exemption application. Whenever practicable,  
97 the department shall issue a determination letter not more than 30 days after receipt of the  
98 application. For approved applications, the determination letter shall include the final signature  
99 date of the application or the expiration date of the approval pursuant to section 12 or both dates.  
100 For denied applications, the determination letter shall include the reason or reasons for the  
101 denial. The department shall establish a process for appeal or reconsideration for applicants who  
102 are denied. An appeal or reconsideration decision from the department shall be deemed an  
103 exhaustion of administrative remedies.

104           Section 12. An exemption approved by the department shall be valid for a period of not  
105 more than 1 year from the final signature date of the application. The department may, in its sole  
106 discretion, require covered programs to exclude exempted participants during a declared public  
107 health emergency.

108           Section 13. A private covered program may implement immunization requirements more  
109 stringent than those set forth in this chapter, including but not limited to accepting medical  
110 exemptions only; provided, however, that no private covered program shall refuse to accept  
111 medical exemptions; and provided further, that the program creates and maintains a written  
112 immunization policy, which shall be made available to all responsible adults.

113           Section 14. All covered programs shall annually report total numbers of participants who  
114 are immune and participants who are exempted from immunization requirements, delineated by  
115 exemption type, as applicable, to the department and publish the data to all responsible adults.  
116 The department shall designate the methodology for reporting. Publication may be electronic or

117 in hard copy. Publication shall not be required if it would result in disclosure of personal  
118 information as defined in section 1 of chapter 93H or otherwise violate applicable privacy laws.

119 Section 15. The department shall annually publish immunizations and exemptions data,  
120 delineated by exemption type, as applicable, for each covered program and school district. The  
121 department may also publish data by municipality, county, or other geographic designation, or  
122 otherwise in its discretion. Publication shall be electronic and may also be in hard copy.  
123 Publication shall not be required whenever doing so would result in disclosure of personal  
124 information as defined in section 1 of chapter 93H or otherwise violate applicable privacy laws.  
125 The department shall directly disseminate electronic copies of any published data to the school  
126 physician or nurse assigned to any public covered program pursuant to section 53 of chapter 71.

127 Section 16. Any covered program that has not achieved herd immunity shall be  
128 designated as an elevated risk program. Any covered program that fails to report immunization  
129 and exemption rates consistent with this chapter shall be designated an elevated risk program.  
130 Elevated risk program designations shall remain in place until the department, in its sole  
131 discretion, determines that the covered program has sufficiently improved immunity rates in the  
132 covered program population.

133 Section 17. The department shall maintain a public, online list of elevated risk programs.

134 Section 18. The department shall create a notice to responsible adults about an elevated  
135 risk designation. An elevated risk program shall issue the notice to all responsible adults for  
136 participants or those seeking enrollment in the program during the period in which the  
137 designation is in place not more than 10 days after receiving an elevated risk program  
138 designation. The department may require elevated risk programs to organize and invite all

139 responsible adults to a presentation by the department about immunization safety, immunization  
140 efficacy and herd immunity. Whenever practicable, the presentation shall be conducted within 45  
141 days after the designation is received.

142           Section 19. The department shall develop and make available online an informational  
143 pamphlet about immunization safety, immunization efficacy and herd immunity. The department  
144 shall distribute the informational pamphlet, either electronically or in hard copy, to every  
145 responsible adult who submits an exemption application pursuant to this section. All elevated  
146 risk programs shall distribute the informational pamphlet, either electronically or in hard copy, to  
147 all responsible adults for participants or those seeking enrollment in the program during the  
148 period in which the designation is in place.

149           Section 20. The department shall promulgate regulations to administer, implement, and  
150 enforce this Act, including but not limited to establishing herd immunity rates consistent with  
151 established medical practice and public health research. In conjunction with the department of  
152 elementary and secondary education, the department of higher education, or the department of  
153 early education and care, the department may develop guidelines for covered programs to  
154 achieve compliance with this Act.

155           Section 21. In conjunction with and facilitated by the departments listed in section 20, as  
156 well as partnerships with trusted community-based organizations and local public health  
157 departments, health care providers, or clergy, the department shall conduct outreach to support  
158 the delivery of medically accurate information about immunizations and herd immunity,  
159 including but not limited to the availability of programs funded through the Vaccine Purchase

160 Trust Fund established in section 24N of chapter 111. Such outreach shall focus on, but not be  
161 limited to, immunization gap populations in under-vaccinated communities.

162 Section 22. The department shall collect and report data on immunizations against any  
163 infectious disease which has given rise to a declared public health state of emergency in the  
164 commonwealth. Daily immunization data reports, which the department shall publish on its  
165 website, shall include the number of individuals receiving the immunization, delineated by age  
166 and geographic location, including municipal, county, and statewide counts. Further, the  
167 department shall collect infectious disease immunization data by key socioeconomic and  
168 demographic indicators, including race, gender, ethnicity, disability, sexual orientation and  
169 gender identity, primary language, occupation, household income, residence in elder care  
170 facilities and other congregate care settings, and housing status, and report such data on its  
171 website not less than weekly, except where publication would result in disclosure of personal  
172 information as defined in section 1 of chapter 93H .

173 SECTION 6. Section 12F of chapter 112 of the general laws, as appearing in the 2018  
174 Official Edition, is hereby amended by striking out, in lines 14 and 15, the words “have come in  
175 contact with” and inserting in place thereof the following words:- be at risk of contracting.

176 SECTION 7. Said section 12F of said chapter 112, as so appearing, is hereby further  
177 amended by inserting after the word “diagnosis”, in line 18, the following word:- , prevention.

178 SECTION 8. Chapter 5 of the Acts of 1995 is hereby amended by striking out section  
179 122.

180 SECTION 9. Sections 1 through 5, inclusive, of this act shall take effect on July 1, 2021.  
181 Remaining sections of this act shall take effect upon its passage.