



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4174

Introduced 10/19/2021, by Rep. Tom Weber, Chris Miller, Dan Caulkins and Joe Sosnowski

SYNOPSIS AS INTRODUCED:

105 ILCS 5/27-8.1
410 ILCS 315/2f new

from Ch. 122, par. 27-8.1

Amends the School Code. In provisions concerning the health examinations and immunizations that school children are required to receive, provides that a child may not be required to submit proof of having received an immunization against COVID-19 upon enrolling in school nor may a child already enrolled in school be required to receive an immunization against COVID-19. Amends the Communicable Disease Prevention Act. Pursuant to the School Code provisions, prohibits the Department of Public Health from adopting any rules that require children to receive an immunization against COVID-19. Effective immediately.

LRB102 20484 CMG 29350 b

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section
5 27-8.1 as follows:

6 (105 ILCS 5/27-8.1) (from Ch. 122, par. 27-8.1)

7 Sec. 27-8.1. Health examinations and immunizations.

8 (1) In compliance with rules and regulations which the
9 Department of Public Health shall promulgate, and except as
10 hereinafter provided, all children in Illinois shall have a
11 health examination as follows: within one year prior to
12 entering kindergarten or the first grade of any public,
13 private, or parochial elementary school; upon entering the
14 sixth and ninth grades of any public, private, or parochial
15 school; prior to entrance into any public, private, or
16 parochial nursery school; and, irrespective of grade,
17 immediately prior to or upon entrance into any public,
18 private, or parochial school or nursery school, each child
19 shall present proof of having been examined in accordance with
20 this Section and the rules and regulations promulgated
21 hereunder. Any child who received a health examination within
22 one year prior to entering the fifth grade for the 2007-2008
23 school year is not required to receive an additional health

1 examination in order to comply with the provisions of Public
2 Act 95-422 when he or she attends school for the 2008-2009
3 school year, unless the child is attending school for the
4 first time as provided in this paragraph.

5 A tuberculosis skin test screening shall be included as a
6 required part of each health examination included under this
7 Section if the child resides in an area designated by the
8 Department of Public Health as having a high incidence of
9 tuberculosis. Additional health examinations of pupils,
10 including eye examinations, may be required when deemed
11 necessary by school authorities. Parents are encouraged to
12 have their children undergo eye examinations at the same
13 points in time required for health examinations.

14 (1.5) In compliance with rules adopted by the Department
15 of Public Health and except as otherwise provided in this
16 Section, all children in kindergarten and the second, sixth,
17 and ninth grades of any public, private, or parochial school
18 shall have a dental examination. Each of these children shall
19 present proof of having been examined by a dentist in
20 accordance with this Section and rules adopted under this
21 Section before May 15th of the school year. If a child in the
22 second, sixth, or ninth grade fails to present proof by May
23 15th, the school may hold the child's report card until one of
24 the following occurs: (i) the child presents proof of a
25 completed dental examination or (ii) the child presents proof
26 that a dental examination will take place within 60 days after

1 May 15th. A school may not withhold a child's report card
2 during a school year in which the Governor has declared a
3 disaster due to a public health emergency pursuant to Section
4 7 of the Illinois Emergency Management Agency Act. The
5 Department of Public Health shall establish, by rule, a waiver
6 for children who show an undue burden or a lack of access to a
7 dentist. Each public, private, and parochial school must give
8 notice of this dental examination requirement to the parents
9 and guardians of students at least 60 days before May 15th of
10 each school year.

11 (1.10) Except as otherwise provided in this Section, all
12 children enrolling in kindergarten in a public, private, or
13 parochial school on or after January 1, 2008 (the effective
14 date of Public Act 95-671) and any student enrolling for the
15 first time in a public, private, or parochial school on or
16 after January 1, 2008 (the effective date of Public Act
17 95-671) shall have an eye examination. Each of these children
18 shall present proof of having been examined by a physician
19 licensed to practice medicine in all of its branches or a
20 licensed optometrist within the previous year, in accordance
21 with this Section and rules adopted under this Section, before
22 October 15th of the school year. If the child fails to present
23 proof by October 15th, the school may hold the child's report
24 card until one of the following occurs: (i) the child presents
25 proof of a completed eye examination or (ii) the child
26 presents proof that an eye examination will take place within

1 60 days after October 15th. A school may not withhold a child's
2 report card during a school year in which the Governor has
3 declared a disaster due to a public health emergency pursuant
4 to Section 7 of the Illinois Emergency Management Agency Act.
5 The Department of Public Health shall establish, by rule, a
6 waiver for children who show an undue burden or a lack of
7 access to a physician licensed to practice medicine in all of
8 its branches who provides eye examinations or to a licensed
9 optometrist. Each public, private, and parochial school must
10 give notice of this eye examination requirement to the parents
11 and guardians of students in compliance with rules of the
12 Department of Public Health. Nothing in this Section shall be
13 construed to allow a school to exclude a child from attending
14 because of a parent's or guardian's failure to obtain an eye
15 examination for the child.

16 (2) The Department of Public Health shall promulgate rules
17 and regulations specifying the examinations and procedures
18 that constitute a health examination, which shall include an
19 age-appropriate developmental screening, an age-appropriate
20 social and emotional screening, and the collection of data
21 relating to asthma and obesity (including at a minimum, date
22 of birth, gender, height, weight, blood pressure, and date of
23 exam), and a dental examination and may recommend by rule that
24 certain additional examinations be performed. The rules and
25 regulations of the Department of Public Health shall specify
26 that a tuberculosis skin test screening shall be included as a

1 required part of each health examination included under this
2 Section if the child resides in an area designated by the
3 Department of Public Health as having a high incidence of
4 tuberculosis. With respect to the developmental screening and
5 the social and emotional screening, the Department of Public
6 Health must, no later than January 1, 2019, develop rules and
7 appropriate revisions to the Child Health Examination form in
8 conjunction with a statewide organization representing school
9 boards; a statewide organization representing pediatricians;
10 statewide organizations representing individuals holding
11 Illinois educator licenses with school support personnel
12 endorsements, including school social workers, school
13 psychologists, and school nurses; a statewide organization
14 representing children's mental health experts; a statewide
15 organization representing school principals; the Director of
16 Healthcare and Family Services or his or her designee, the
17 State Superintendent of Education or his or her designee; and
18 representatives of other appropriate State agencies and, at a
19 minimum, must recommend the use of validated screening tools
20 appropriate to the child's age or grade, and, with regard to
21 the social and emotional screening, require recording only
22 whether or not the screening was completed. The rules shall
23 take into consideration the screening recommendations of the
24 American Academy of Pediatrics and must be consistent with the
25 State Board of Education's social and emotional learning
26 standards. The Department of Public Health shall specify that

1 a diabetes screening as defined by rule shall be included as a
2 required part of each health examination. Diabetes testing is
3 not required.

4 Physicians licensed to practice medicine in all of its
5 branches, licensed advanced practice registered nurses, or
6 licensed physician assistants shall be responsible for the
7 performance of the health examinations, other than dental
8 examinations, eye examinations, and vision and hearing
9 screening, and shall sign all report forms required by
10 subsection (4) of this Section that pertain to those portions
11 of the health examination for which the physician, advanced
12 practice registered nurse, or physician assistant is
13 responsible. If a registered nurse performs any part of a
14 health examination, then a physician licensed to practice
15 medicine in all of its branches must review and sign all
16 required report forms. Licensed dentists shall perform all
17 dental examinations and shall sign all report forms required
18 by subsection (4) of this Section that pertain to the dental
19 examinations. Physicians licensed to practice medicine in all
20 its branches or licensed optometrists shall perform all eye
21 examinations required by this Section and shall sign all
22 report forms required by subsection (4) of this Section that
23 pertain to the eye examination. For purposes of this Section,
24 an eye examination shall at a minimum include history, visual
25 acuity, subjective refraction to best visual acuity near and
26 far, internal and external examination, and a glaucoma

1 evaluation, as well as any other tests or observations that in
2 the professional judgment of the doctor are necessary. Vision
3 and hearing screening tests, which shall not be considered
4 examinations as that term is used in this Section, shall be
5 conducted in accordance with rules and regulations of the
6 Department of Public Health, and by individuals whom the
7 Department of Public Health has certified. In these rules and
8 regulations, the Department of Public Health shall require
9 that individuals conducting vision screening tests give a
10 child's parent or guardian written notification, before the
11 vision screening is conducted, that states, "Vision screening
12 is not a substitute for a complete eye and vision evaluation by
13 an eye doctor. Your child is not required to undergo this
14 vision screening if an optometrist or ophthalmologist has
15 completed and signed a report form indicating that an
16 examination has been administered within the previous 12
17 months."

18 (2.5) With respect to the developmental screening and the
19 social and emotional screening portion of the health
20 examination, each child may present proof of having been
21 screened in accordance with this Section and the rules adopted
22 under this Section before October 15th of the school year.
23 With regard to the social and emotional screening only, the
24 examining health care provider shall only record whether or
25 not the screening was completed. If the child fails to present
26 proof of the developmental screening or the social and

1 emotional screening portions of the health examination by
2 October 15th of the school year, qualified school support
3 personnel may, with a parent's or guardian's consent, offer
4 the developmental screening or the social and emotional
5 screening to the child. Each public, private, and parochial
6 school must give notice of the developmental screening and
7 social and emotional screening requirements to the parents and
8 guardians of students in compliance with the rules of the
9 Department of Public Health. Nothing in this Section shall be
10 construed to allow a school to exclude a child from attending
11 because of a parent's or guardian's failure to obtain a
12 developmental screening or a social and emotional screening
13 for the child. Once a developmental screening or a social and
14 emotional screening is completed and proof has been presented
15 to the school, the school may, with a parent's or guardian's
16 consent, make available appropriate school personnel to work
17 with the parent or guardian, the child, and the provider who
18 signed the screening form to obtain any appropriate
19 evaluations and services as indicated on the form and in other
20 information and documentation provided by the parents,
21 guardians, or provider.

22 (3) Every child shall, at or about the same time as he or
23 she receives a health examination required by subsection (1)
24 of this Section, present to the local school proof of having
25 received such immunizations against preventable communicable
26 diseases as the Department of Public Health shall require by

1 rules and regulations promulgated pursuant to this Section and
2 the Communicable Disease Prevention Act.

3 (3.5) Notwithstanding any other law or rule to the
4 contrary, no child may be required to submit proof of having
5 received an immunization against COVID-19 upon enrolling in
6 school nor may a child already enrolled in school be required
7 to receive an immunization against COVID-19.

8 (4) The individuals conducting the health examination,
9 dental examination, or eye examination shall record the fact
10 of having conducted the examination, and such additional
11 information as required, including for a health examination
12 data relating to asthma and obesity (including at a minimum,
13 date of birth, gender, height, weight, blood pressure, and
14 date of exam), on uniform forms which the Department of Public
15 Health and the State Board of Education shall prescribe for
16 statewide use. The examiner shall summarize on the report form
17 any condition that he or she suspects indicates a need for
18 special services, including for a health examination factors
19 relating to asthma or obesity. The duty to summarize on the
20 report form does not apply to social and emotional screenings.
21 The confidentiality of the information and records relating to
22 the developmental screening and the social and emotional
23 screening shall be determined by the statutes, rules, and
24 professional ethics governing the type of provider conducting
25 the screening. The individuals confirming the administration
26 of required immunizations shall record as indicated on the

1 form that the immunizations were administered.

2 (5) If a child does not submit proof of having had either
3 the health examination or the immunization as required, then
4 the child shall be examined or receive the immunization, as
5 the case may be, and present proof by October 15 of the current
6 school year, or by an earlier date of the current school year
7 established by a school district. To establish a date before
8 October 15 of the current school year for the health
9 examination or immunization as required, a school district
10 must give notice of the requirements of this Section 60 days
11 prior to the earlier established date. If for medical reasons
12 one or more of the required immunizations must be given after
13 October 15 of the current school year, or after an earlier
14 established date of the current school year, then the child
15 shall present, by October 15, or by the earlier established
16 date, a schedule for the administration of the immunizations
17 and a statement of the medical reasons causing the delay, both
18 the schedule and the statement being issued by the physician,
19 advanced practice registered nurse, physician assistant,
20 registered nurse, or local health department that will be
21 responsible for administration of the remaining required
22 immunizations. If a child does not comply by October 15, or by
23 the earlier established date of the current school year, with
24 the requirements of this subsection, then the local school
25 authority shall exclude that child from school until such time
26 as the child presents proof of having had the health

1 examination as required and presents proof of having received
2 those required immunizations which are medically possible to
3 receive immediately. During a child's exclusion from school
4 for noncompliance with this subsection, the child's parents or
5 legal guardian shall be considered in violation of Section
6 26-1 and subject to any penalty imposed by Section 26-10. This
7 subsection (5) does not apply to dental examinations, eye
8 examinations, and the developmental screening and the social
9 and emotional screening portions of the health examination. If
10 the student is an out-of-state transfer student and does not
11 have the proof required under this subsection (5) before
12 October 15 of the current year or whatever date is set by the
13 school district, then he or she may only attend classes (i) if
14 he or she has proof that an appointment for the required
15 vaccinations has been scheduled with a party authorized to
16 submit proof of the required vaccinations. If the proof of
17 vaccination required under this subsection (5) is not
18 submitted within 30 days after the student is permitted to
19 attend classes, then the student is not to be permitted to
20 attend classes until proof of the vaccinations has been
21 properly submitted. No school district or employee of a school
22 district shall be held liable for any injury or illness to
23 another person that results from admitting an out-of-state
24 transfer student to class that has an appointment scheduled
25 pursuant to this subsection (5).

26 (6) Every school shall report to the State Board of

1 Education by November 15, in the manner which that agency
2 shall require, the number of children who have received the
3 necessary immunizations and the health examination (other than
4 a dental examination or eye examination) as required,
5 indicating, of those who have not received the immunizations
6 and examination as required, the number of children who are
7 exempt from health examination and immunization requirements
8 on religious or medical grounds as provided in subsection (8).
9 On or before December 1 of each year, every public school
10 district and registered nonpublic school shall make publicly
11 available the immunization data they are required to submit to
12 the State Board of Education by November 15. The immunization
13 data made publicly available must be identical to the data the
14 school district or school has reported to the State Board of
15 Education.

16 Every school shall report to the State Board of Education
17 by June 30, in the manner that the State Board requires, the
18 number of children who have received the required dental
19 examination, indicating, of those who have not received the
20 required dental examination, the number of children who are
21 exempt from the dental examination on religious grounds as
22 provided in subsection (8) of this Section and the number of
23 children who have received a waiver under subsection (1.5) of
24 this Section.

25 Every school shall report to the State Board of Education
26 by June 30, in the manner that the State Board requires, the

1 number of children who have received the required eye
2 examination, indicating, of those who have not received the
3 required eye examination, the number of children who are
4 exempt from the eye examination as provided in subsection (8)
5 of this Section, the number of children who have received a
6 waiver under subsection (1.10) of this Section, and the total
7 number of children in noncompliance with the eye examination
8 requirement.

9 The reported information under this subsection (6) shall
10 be provided to the Department of Public Health by the State
11 Board of Education.

12 (7) Upon determining that the number of pupils who are
13 required to be in compliance with subsection (5) of this
14 Section is below 90% of the number of pupils enrolled in the
15 school district, 10% of each State aid payment made pursuant
16 to Section 18-8.05 or 18-8.15 to the school district for such
17 year may be withheld by the State Board of Education until the
18 number of students in compliance with subsection (5) is the
19 applicable specified percentage or higher.

20 (8) Children of parents or legal guardians who object to
21 health, dental, or eye examinations or any part thereof, to
22 immunizations, or to vision and hearing screening tests on
23 religious grounds shall not be required to undergo the
24 examinations, tests, or immunizations to which they so object
25 if such parents or legal guardians present to the appropriate
26 local school authority a signed Certificate of Religious

1 Exemption detailing the grounds for objection and the specific
2 immunizations, tests, or examinations to which they object.
3 The grounds for objection must set forth the specific
4 religious belief that conflicts with the examination, test,
5 immunization, or other medical intervention. The signed
6 certificate shall also reflect the parent's or legal
7 guardian's understanding of the school's exclusion policies in
8 the case of a vaccine-preventable disease outbreak or
9 exposure. The certificate must also be signed by the
10 authorized examining health care provider responsible for the
11 performance of the child's health examination confirming that
12 the provider provided education to the parent or legal
13 guardian on the benefits of immunization and the health risks
14 to the student and to the community of the communicable
15 diseases for which immunization is required in this State.
16 However, the health care provider's signature on the
17 certificate reflects only that education was provided and does
18 not allow a health care provider grounds to determine a
19 religious exemption. Those receiving immunizations required
20 under this Code shall be provided with the relevant vaccine
21 information statements that are required to be disseminated by
22 the federal National Childhood Vaccine Injury Act of 1986,
23 which may contain information on circumstances when a vaccine
24 should not be administered, prior to administering a vaccine.
25 A healthcare provider may consider including without
26 limitation the nationally accepted recommendations from

1 federal agencies such as the Advisory Committee on
2 Immunization Practices, the information outlined in the
3 relevant vaccine information statement, and vaccine package
4 inserts, along with the healthcare provider's clinical
5 judgment, to determine whether any child may be more
6 susceptible to experiencing an adverse vaccine reaction than
7 the general population, and, if so, the healthcare provider
8 may exempt the child from an immunization or adopt an
9 individualized immunization schedule. The Certificate of
10 Religious Exemption shall be created by the Department of
11 Public Health and shall be made available and used by parents
12 and legal guardians by the beginning of the 2015-2016 school
13 year. Parents or legal guardians must submit the Certificate
14 of Religious Exemption to their local school authority prior
15 to entering kindergarten, sixth grade, and ninth grade for
16 each child for which they are requesting an exemption. The
17 religious objection stated need not be directed by the tenets
18 of an established religious organization. However, general
19 philosophical or moral reluctance to allow physical
20 examinations, eye examinations, immunizations, vision and
21 hearing screenings, or dental examinations does not provide a
22 sufficient basis for an exception to statutory requirements.
23 The local school authority is responsible for determining if
24 the content of the Certificate of Religious Exemption
25 constitutes a valid religious objection. The local school
26 authority shall inform the parent or legal guardian of

1 exclusion procedures, in accordance with the Department's
2 rules under Part 690 of Title 77 of the Illinois
3 Administrative Code, at the time the objection is presented.

4 If the physical condition of the child is such that any one
5 or more of the immunizing agents should not be administered,
6 the examining physician, advanced practice registered nurse,
7 or physician assistant responsible for the performance of the
8 health examination shall endorse that fact upon the health
9 examination form.

10 Exempting a child from the health, dental, or eye
11 examination does not exempt the child from participation in
12 the program of physical education training provided in
13 Sections 27-5 through 27-7 of this Code.

14 (8.5) The school board of a school district shall include
15 informational materials regarding influenza and influenza
16 vaccinations and meningococcal disease and meningococcal
17 vaccinations developed, provided, or approved by the
18 Department of Public Health under Section 2310-700 of the
19 Department of Public Health Powers and Duties Law of the Civil
20 Administrative Code of Illinois when the board provides
21 information on immunizations, infectious diseases,
22 medications, or other school health issues to the parents or
23 guardians of students.

24 (9) For the purposes of this Section, "nursery schools"
25 means those nursery schools operated by elementary school
26 systems or secondary level school units or institutions of

1 higher learning.

2 (Source: P.A. 100-238, eff. 1-1-18; 100-465, eff. 8-31-17;
3 100-513, eff. 1-1-18; 100-829, eff. 1-1-19; 100-863, eff.
4 8-14-18; 100-977, eff. 1-1-19; 100-1011, eff. 8-21-18; 101-81,
5 eff. 7-12-19; 101-643, eff. 6-18-20.)

6 Section 10. The Communicable Disease Prevention Act is
7 amended by adding Section 2f as follows:

8 (410 ILCS 315/2f new)

9 Sec. 2f. COVID-19 vaccine. Pursuant to Section 27-8.1 of
10 the School Code and notwithstanding Section 2 of this Act, the
11 Department of Public Health may not adopt any rules requiring
12 children to receive an immunization against COVID-19.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.