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H.B. 319
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Gross and Wiggam

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SUMMARY

- Prohibits certain private and public entities from taking specified actions against an individual based on the individual's refusal of any biologic, vaccine, pharmaceutical, drug, gene editing technology, RNA-based product, or DNA-based product for reasons of conscience, including religious convictions.
- Authorizes an individual who believes that a violation of the bill's prohibition has occurred to (1) petition a court for injunctive relief or a declaratory judgment or (2) bring a private civil action for money damages.
- If the individual prevails, requires the court to award the individual court costs and reasonable attorney's fees and, in the case of a private civil action for money damages, also requires the court to award the individual three times the amount of the individual's actual damages or \$200, whichever is greater.
- Names the act the Conscientious Right to Refuse Act.

DETAILED ANALYSIS

Conscientious Right to Refuse Act

The bill prohibits specified private and public entities from taking any of the following actions against an individual based on the individual's refusal of any biologic, vaccine, pharmaceutical, drug, gene editing technology, RNA-based product, or DNA-based product for reasons of conscience, including religious convictions:

- Denying employment to the individual or terminating the individual's employment;
- Denying a service, including a public service, to the individual;
- Denying the individual access to commerce;
- Segregating the individual;

- Penalizing the individual or using financial coercion against the individual;
- Treating the individual differently than an individual who accepted the medical intervention.¹

Under the bill, an “individual” means an individual who is 18 years of age or older or an emancipated minor.²

Entities subject to the bill’s prohibition

The bill’s prohibition applies to the following private and public entities: businesses; employers, including administrators and supervisors; health plan issuers; health care providers; hospitals; institutions; nursing homes; persons; political subdivisions; private colleges; public officials; residential care facilities; state agencies; and state institutions of higher education.³

For purposes of the bill, a “person” includes a corporation, business trust, estate, trust, partnership, and association, but not an individual.⁴

Injunctive relief, declaratory judgments, and money damages

Under the bill, if an individual believes that a violation of the bill’s prohibition has occurred, the individual may do either or both of the following:

- Petition a court of competent jurisdiction for injunctive relief or a declaratory judgment;
- Bring a private civil action for money damages in a court of competent jurisdiction against the business, employer, health plan issuer, health care provider, hospital, institution, nursing home, person, political subdivision, private college, public official, residential care facility, state agency, or state institution of higher education.⁵

The bill does not specify whether an individual who believes that a violation has occurred and then files a petition or brings an action for money damages must be the same individual against whom a prohibited action was taken.

Standard of proof

To prevail in a civil action, the bill specifies that the individual must prove, by a preponderance of the evidence, that the business, employer, health plan issuer, health care provider, hospital, institution, nursing home, person, political subdivision, private college, public official, residential care facility, state agency, or state institution of higher education violated the bill’s prohibition.

¹ R.C. 3792.07(B).

² R.C. 3792.07(A)(1).

³ R.C. 3792.07(B).

⁴ R.C. 3792.07(A)(2).

⁵ R.C. 3792.07(C)(1) and (2).

Court costs, reasonable attorney’s fees, and money damages

Whenever an individual who petitions for injunctive relief or a declaratory judgment prevails in that petition, the court must award the individual court costs and reasonable attorney’s fees. And whenever an individual who brings a private civil action for money damages prevails in that action, the court must award the individual all of the following: court costs; reasonable attorney’s fees; and three times the amount of the individual’s actual damages or \$200, whichever is greater.⁶

Special vs. general provisions

The bill specifies that its provisions prevail over any conflicting provisions in a general law, to the extent of the conflict, unless the general law contains a specific exemption from the bill’s provisions. In that case, the general law prevails, but only to the extent of the exemption.⁷

Medical interventions – recommendations, education, and access

The bill states that its provisions do not prevent the recommendation of, education on, or access to any biologic, vaccine, pharmaceutical, drug, gene editing technology, RNA-based product, or DNA-based product.⁸

HISTORY

Action	Date
Introduced	11-08-23

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⁶ R.C. 3792.07(C).

⁷ R.C. 3792.07(D).

⁸ R.C. 3792.07(E).