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# **GOVERNOR PRITZKER SIGNS LAW CLARIFYING THE ILLINOIS HEALTH CARE RIGHT OF CONSCIENCE ACT**

In August, Governor Pritzker signed Executive Order 2021-20 requiring all school personnel to be fully vaccinated from COVID-19 or receive at least weekly COVID-19 testing. The Order further ordered schools to exclude any school personnel who do not comply with the vaccination or testing requirement.

Since that time, some school employees have argued that they have a right to refuse COVID-19 vaccination and/or testing under the Illinois Health Care Right of Conscience Act. This law has historically been applied to protect health care workers from discipline when they refuse to perform certain medical procedures because of a religious or conscientious objection.

On November 8, 2021, Governor Pritzker signed Public Act 102-667 into law. This law adds a new section to the Health Care Right of Conscience Act which provides that:

It is not a violation of this Act for any person or public official, or for any public or private association, agency, corporation, entity, institution, or employer, to take any measures or impose any requirements, including, but not limited to, any measures or requirements that involve provision of services by a physician or health care personnel, intended to prevent contraction or transmission of COVID-19 or any pathogens that result in COVID-19 or any of its subsequent iterations. It is not a violation of this Act to enforce such measures or requirements.

This amendment clarifies that the Act does not provide school personnel with a right to refuse COVID-19 vaccination and/or testing, and that it does not protect them from discipline based on that refusal.

This statutory amendment does not become effective until June 1, 2022. However, the General Assembly can act it move up that date if it takes action upon reconvening in January. The law also contains a provision that the new section of the Act “is a declaration of existing law and shall not be construed as a new enactment.” In theory, that means that a school district’s prior or current position that the Health Care Right of Conscience Act does not afford employees with a right to refuse COVID-19 vaccination and/or testing remains valid. However, the courts do not always give effect to such legislative declarations about a law’s intent.

Finally, please note that this statutory amendment only pertains to an employee’s refusal to get vaccinated or to submit to COVID-19 testing under the Health Care Right of Conscience Act. It does not affect employees’ rights, or school districts’ obligations, under any other laws including the Americans with Disabilities Act, Title VII, the Illinois Human Rights Act, and the Illinois Religious Freedom Restoration Act.

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If you have any questions, please do not hesitate to contact one of our attorneys.