



HB22-1144

Naturally Acquired Immunity COVID-19

Concerning the ability of individuals to demonstrate naturally acquired immunity to COVID-19 in lieu of complying with requirements imposed to limit the transmission of COVID-19.

SESSION: 2022 Regular Session

SUBJECTS: Health Care & Health Insurance, Labor & Employment, Public Health, State Government

BILL SUMMARY

The bill requires an employer, as a condition of employment, or a state agency that imposes a COVID-19 vaccine or testing requirement to allow a person subject to the requirement to instead provide documentation demonstrating that the person has naturally acquired immunity to the disease.

(Note: This summary applies to this bill as introduced.)

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PRIME SPONSORS



Representative

[Mark Baisley \(/legislators/mark-baisley\)](/legislators/mark-baisley)

HB1144_L.001

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Health & Insurance.

HB22-1144 be amended as follows:

- 1 Amend printed bill, page 2, line 24, after "mRNA" insert "or
2 adenovirus-vectored".
- 3 Strike "COVID-19." and substitute "COVID-19, AND ANY VARIANTS OR
4 MUTATIONS OF THE VIRUS." on: **Page 7**, line 14; and **Page 8**, line 27.
- 5 After "MRNA" insert "OR ADENOVIRUS-VECTORED" on: **Page 7**, line 15;
6 and **Page 9**, line 5.

** ** ** ** **



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Fiscal Note

Drafting Number: LLS 22-0634
Prime Sponsors: Rep. Baisley

Date: February 8, 2022
Bill Status: House Health & Insurance
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Bill Topic: NATURALLY ACQUIRED IMMUNITY COVID-19

Summary of Fiscal Impact:

- | | |
|---|--|
| <input type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input checked="" type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

The bill requires an employer or a state agency that imposes a COVID-19 vaccine or testing requirement to instead allow a person to provide documentation demonstrating a naturally acquired immunity to the virus. It may increase state and local workload.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill requires an employer or a state agency that imposes a COVID-19 vaccine or testing requirement to instead allow a person to provide documentation demonstrating a naturally acquired immunity to the virus. The documentation may be either a positive COVID test or an antibody test.

State Expenditures

The Colorado Department of Public Health and Environment may be required to update rules to allow for the natural immunity requirement in addition to vaccination. The Division of Human Resources in the Department of Personnel and Administration will have increased workload to update current COVID-19 tracking mechanisms to include natural immunity, as well as to modify existing documentation, policies, and processes. No change in appropriations is required for either agency.

Local Governments, School Districts, and Statutory Public Entities

Any state or local government employer that mandates COVID vaccines or testing will have to update processes to allow for documentation demonstrating a naturally acquired immunity to the virus.

Technical Note

The allowance for naturally acquired immunity documentation in lieu of a vaccine or COVID-19 testing may conflict with current federal mandates regarding COVID-19 vaccination of eligible staff at certain health care facilities.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Counties	Information Technology	Law
Municipalities	Personnel	Public Health and Environment

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0634.01 Christy Chase x2008

HOUSE BILL 22-1144

HOUSE SPONSORSHIP

Baisley,

SENATE SPONSORSHIP

(None),

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ABILITY OF INDIVIDUALS TO DEMONSTRATE
102 NATURALLY ACQUIRED IMMUNITY TO COVID-19 IN LIEU OF
103 COMPLYING WITH REQUIREMENTS IMPOSED TO LIMIT THE
104 TRANSMISSION OF COVID-19.

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 requires an employer, as a condition of employment, or a state agency that imposes a COVID-19 vaccine or testing requirement to allow a person subject to the requirement to instead provide

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.

documentation demonstrating that the person has naturally acquired immunity to the disease.

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 "Naturally Acquired Immunity Equity and Inclusion Act".

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

6 (a) More than one hundred forty scientific studies, including, most
7 notably, a study from the Kahn Sagol Maccabi Research and Innovation
8 Center from August 25, 2021, entitled "Comparing SARS-CoV-2 natural
9 immunity to vaccine-induced immunity: reinfections versus breakthrough
10 infections", reflect that people previously infected with COVID-19,
11 referred to as the "naturally immune" or people with "naturally acquired
12 immunity", have superior protection from becoming infected with and
13 transmitting SARS-CoV-2 than those vaccinated for COVID-19, referred
14 to as the "vaccine immune" or people with "vaccine-induced immunity";

15 (b) "Naturally acquired immunity" or "natural immunity":

16 (I) Is found in an individual who:

17 (A) Has contracted SARS-CoV-2, has subsequently recovered,
18 and has antibodies that are naturally occurring as a result of the immune
19 system response of fighting off a foreign agent and having that disease
20 "encoded" in the individual's cells; or

21 (B) Has received monoclonal antibody treatment; and

22 (II) Encompasses the natural progression to humoral immunity;

23 (c) "Vaccine-induced immunity" or "vaccine immunity" is found
24 in an individual who has received the mRNA COVID-19 preparation,
25 referred to as the "COVID-19 vaccine";

1 (d) With regard to the scientific studies reflecting the superior
2 protections for the naturally immune, the federal centers for disease
3 control and prevention (CDC) does not contest:

4 (I) Any of the data or studies, which collectively reviewed
5 hundreds of thousands of naturally immune and vaccine-immune
6 individuals and found that the rate of infection among the naturally
7 immune (reinfections) is far lower than the rate of infection among the
8 vaccinated (breakthrough cases); and

9 (II) Any of the studies and data cited that reflect that, consistent
10 with the foregoing real-world data, the naturally immune have more
11 robust and durable T cell and B cell immunity;

12 (e) The data and conclusions from these studies should suffice to
13 justify lifting restrictions on people who are naturally immune at least to
14 the same extent restrictions are lifted for people who are deemed vaccine
15 immune;

16 (f) The uncontested data reflects that reinfection of the naturally
17 immune is rare and occurs at a small fraction of the rate of breakthrough
18 cases;

19 (g) Those with naturally acquired immunity have a negligible rate
20 of reinfection;

21 (h) The vaccine immune have high breakthrough transmissions
22 compared to the naturally immune;

23 (i) The studies do not support applying any additional limitations
24 to the naturally immune that do not apply to the vaccinated;

25 (j) The studies also show that rates of reinfection in the naturally
26 immune are lower than the rates of reinfection in the vaccine immune;

27 (k) The results of surviving a SARS-CoV-2 infection is a robust,

1 complete, and durable natural immunity that is in every way superior to
2 vaccine-induced immunity;

3 (l) There are no studies demonstrating a clinical benefit to the
4 COVID-19 vaccination in COVID-19 survivors or in those who have
5 laboratory evidence of prior infection; however, there may be as high as
6 a two- to four-fold increase of serious and permanent risks if a person
7 with naturally acquired immunity receives a COVID-19 vaccine;

8 (m) Natural immunity is stunted by subsequent vaccinations, and
9 notably, researchers in the United States who studied individuals with
10 humoral immunity from two weeks to six months after vaccination in
11 individuals with and without SARS-CoV-2 infection before vaccination:

12 (I) Noted that, "[a]ntispikes, anti-RBD and neutralization levels
13 dropped more than 84% over 6 months' time in all [vaccinated] groups
14 irrespective of prior SARS-CoV-2 infection";

15 (II) Observed that the fact that the levels drop following
16 vaccination is an indication that vaccination is having an adverse effect
17 on naturally acquired immunity; and

18 (III) Concluded that normal, longstanding, robust immunity does
19 not typically show significant waning and, in fact, shows increasing
20 potency over time, and in those recovered and subsequently vaccinated,
21 immunity is dropping eighty-four percent over six months after
22 vaccination;

23 (n) According to a study funded in part by the National Institutes
24 of Health in January of 2021, researchers of the La Jolla Institute for
25 Immunology analyzed immune cells and antibodies from almost two
26 hundred people who had been exposed to SARS-CoV-2 and recovered
27 and found a durable immune response, and the number of both T cells and

1 virus-specific B cells were found to significantly increase over time, with
2 greater protection for the individual at six months than at one month;

3 (o) Internationally, countries such as Germany that have instituted
4 severe COVID restrictions acknowledge the validity of natural immunity;

5 (p) Historically, the very concept of "herd immunity" is based
6 upon scientific studies of naturally acquired immunity within a given
7 community, so to deny naturally acquired immunity is to deny both
8 historical precedent and science;

9 (q) An important October 2021 Israeli study of more than one
10 hundred fifty thousand people found that naturally acquired immunity is
11 thirteen times more effective than vaccine-induced immunity. Harvard
12 Medical School professor Martin Kulldorff agrees, noting "Based on the
13 solid evidence from the Israeli study, the Covid recovered have stronger
14 and longer-lasting immunity against Covid disease than the vaccinated.
15 Hence, there is no reason to prevent them from activities that are
16 permitted to the vaccinated."

17 (r) On January 6, 2022, the National Collegiate Athletic
18 Association's COVID-19 Medical Advisory Group released new guidance
19 that acknowledges the validity and efficacy of naturally acquired
20 immunity and stated, "Individuals within ninety days of a documented
21 COVID-19 infection fall within the equivalent of 'fully vaccinated.'";

22 (s) On January 19, 2022, the CDC released a report indicating that
23 those with naturally acquired immunity were six times less likely to
24 contract the Delta variant of SARS-CoV-2 than those who received the
25 COVID-19 vaccine;

26 (t) Based on all available science, there is neither a compelling
27 state interest nor a rational basis to treat individuals who have recovered

1 from SARS-CoV-2 differently than those who have been vaccinated with
2 regard to COVID-19-related restrictions and freedoms;

3 (u) The people and state of Colorado, as reflected in our laws and
4 culture, support the noble ideals of equity and inclusion, and all citizens
5 of this great state, regardless of disability, race, creed, color, sex, sexual
6 orientation, gender identity, gender expression, religion, age, national
7 origin, ancestry, or medical condition, are to be treated with fairness and
8 justice;

9 (v) Coloradans also strive to be inclusive and to recognize,
10 respect, and embrace those who look, worship, or think differently; and

11 (w) Therefore, it is the intent of the general assembly to enact the
12 "Naturally Acquired Immunity Equity and Inclusion Act" to establish that
13 naturally acquired immunity, for purposes of COVID-19 immunity
14 verification, shall suffice in lieu of COVID-19 vaccination or testing.

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

17 **8-2-131. Naturally acquired immunity in lieu of COVID-19**
18 **vaccination or test - definitions.** (1) AS USED IN THIS SECTION:

19 (a) "COVID-19" MEANS THE CORONAVIRUS DISEASE 2019 CAUSED
20 BY SARS-CoV-2.

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

25 (c) "EMPLOYER" MEANS A PERSON TRANSACTING BUSINESS IN
26 COLORADO THAT, AT ANY TIME, EMPLOYS ANOTHER PERSON TO PERFORM
27 SERVICES OF ANY NATURE AND THAT HAS CONTROL OF THE PAYMENT OF

1 WAGES FOR SUCH SERVICES OR IS THE OFFICER, AGENT, OR EMPLOYEE OF
2 THE PERSON HAVING CONTROL OF THE PAYMENT OF WAGES.

3 (d) "NATURALLY ACQUIRED IMMUNITY" OR "NATURAL IMMUNITY":

4 (I) MEANS THAT AN INDIVIDUAL:

5 (A) HAS CONTRACTED SARS-CoV-2, HAS SUBSEQUENTLY
6 RECOVERED, AND HAS ANTIBODIES THAT ARE NATURALLY OCCURRING AS
7 A RESULT OF THE IMMUNE SYSTEM RESPONSE OF FIGHTING OFF A FOREIGN
8 AGENT AND HAVING THAT DISEASE "ENCODED" IN THE INDIVIDUAL'S
9 CELLS; OR

10 (B) HAS RECEIVED MONOCLONAL ANTIBODY TREATMENT; AND

11 (II) ENCOMPASSES THE NATURAL PROGRESSION TO HUMORAL
12 IMMUNITY;

13 (e) "SARS-CoV-2" MEANS THE SEVERE ACUTE RESPIRATORY
14 SYNDROME CORONAVIRUS 2, WHICH CAUSES COVID-19.

15 (f) "VACCINE" MEANS AN mRNA PREPARATION AGAINST
16 SARS-CoV-2, WHICH PREPARATION MAY BE ADMINISTERED BY AN ORAL,
17 INTRANASAL, SUBCUTANEOUS, OR INTRAMUSCULAR ROUTE.

18 (2) (a) IF AN EMPLOYER REQUIRES AN EMPLOYEE TO RECEIVE A
19 VACCINE, TO SHOW PROOF OF HAVING RECEIVED A VACCINE, OR TO BE
20 REGULARLY TESTED FOR COVID-19 AS A CONDITION OF AN OFFER OF
21 EMPLOYMENT OR CONTINUED EMPLOYMENT WITH THE EMPLOYER, THE
22 EMPLOYER SHALL ACCEPT, IN LIEU OF REQUIRING A VACCINE, PROOF OF
23 HAVING RECEIVED A VACCINE, OR REGULAR TESTING FOR COVID-19,
24 DOCUMENTATION DEMONSTRATING NATURALLY ACQUIRED IMMUNITY
25 AGAINST SARS-CoV-2. THE DOCUMENTATION DEMONSTRATING NATURAL
26 IMMUNITY MAY BE EITHER:

27 (I) DOCUMENTATION SHOWING THAT THE EMPLOYEE TESTED

1 POSITIVE FOR COVID-19; OR

2 (II) DOCUMENTATION OF A SEROLOGY TEST AND T CELL TESTING,
3 AS WELL AS OTHER TESTING AND NEW TECHNOLOGIES THAT MAY BECOME
4 AVAILABLE, THAT PROVE A PREVIOUS SARS-CoV-2 INFECTION.

5 (b) THE DOCUMENTATION DEMONSTRATING NATURALLY ACQUIRED
6 IMMUNITY AGAINST SARS-CoV-2 MUST BE DATED AFTER MARCH 1, 2020.

7 **SECTION 4.** In Colorado Revised Statutes, **add** article 3.3 to title
8 24 as follows:

9 **ARTICLE 3.3**

10 **Limit on State Agencies -**

11 **COVID-19 Vaccine and Testing Requirements**

12 **24-3.3-101. Definitions.** AS USED IN THIS ARTICLE 3.3, UNLESS
13 THE CONTEXT OTHERWISE REQUIRES:

14 (1) "COVID-19" MEANS THE CORONAVIRUS DISEASE 2019 CAUSED
15 BY SARS-CoV-2.

16 (2) "NATURALLY ACQUIRED IMMUNITY" OR "NATURAL IMMUNITY":

17 (a) MEANS THAT AN INDIVIDUAL:

18 (I) HAS CONTRACTED SARS-CoV-2, HAS SUBSEQUENTLY
19 RECOVERED, AND HAS ANTIBODIES THAT ARE NATURALLY OCCURRING AS
20 A RESULT OF THE IMMUNE SYSTEM RESPONSE OF FIGHTING OFF A FOREIGN
21 AGENT AND HAVING THAT DISEASE "ENCODED" IN THE INDIVIDUAL'S
22 CELLS; OR

23 (II) HAS RECEIVED MONOCLONAL ANTIBODY TREATMENT; AND

24 (b) ENCOMPASSES THE NATURAL PROGRESSION TO HUMORAL
25 IMMUNITY;

26 (3) "SARS-CoV-2" MEANS THE SEVERE ACUTE RESPIRATORY
27 SYNDROME CORONAVIRUS 2, WHICH CAUSES COVID-19.

1 (4) "STATE AGENCY" MEANS ANY DEPARTMENT, COMMISSION,
2 COUNCIL, BOARD, BUREAU, COMMITTEE, INSTITUTION OF HIGHER
3 EDUCATION, AGENCY, OR OTHER GOVERNMENTAL UNIT OF THE EXECUTIVE,
4 LEGISLATIVE, OR JUDICIAL BRANCH OF STATE GOVERNMENT.

5 (5) "VACCINE" MEANS AN mRNA PREPARATION AGAINST
6 SARS-CoV-2, WHICH PREPARATION MAY BE ADMINISTERED BY AN ORAL,
7 INTRANASAL, SUBCUTANEOUS, OR INTRAMUSCULAR ROUTE.

8 **24-3.3-102. Naturally acquired immunity in lieu of COVID-19**
9 **vaccination or test.** (1) IF A STATE AGENCY REQUIRES AN INDIVIDUAL TO
10 RECEIVE A VACCINE, TO SHOW PROOF OF HAVING RECEIVED A VACCINE, OR
11 TO BE REGULARLY TESTED FOR COVID-19, THE STATE AGENCY SHALL
12 ACCEPT, IN LIEU OF REQUIRING A VACCINE, PROOF OF HAVING RECEIVED A
13 VACCINE, OR REGULAR TESTING FOR COVID-19, DOCUMENTATION
14 DEMONSTRATING NATURALLY ACQUIRED IMMUNITY AGAINST
15 SARS-CoV-2. THE DOCUMENTATION DEMONSTRATING NATURAL
16 IMMUNITY MAY BE EITHER:

17 (a) DOCUMENTATION SHOWING THAT THE INDIVIDUAL TESTED
18 POSITIVE FOR COVID-19; OR

19 (b) DOCUMENTATION OF A SEROLOGY TEST AND T CELL TESTING,
20 AS WELL AS OTHER TESTING AND NEW TECHNOLOGIES THAT MAY BECOME
21 AVAILABLE, THAT PROVE A PREVIOUS SARS-CoV-2 INFECTION.

22 (2) THE DOCUMENTATION DEMONSTRATING NATURALLY ACQUIRED
23 IMMUNITY AGAINST SARS-CoV-2 MUST BE DATED AFTER MARCH 1, 2020.

24 **SECTION 5. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly; except
27 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this
2 act within such period, then the act, item, section, or part will not take
3 effect unless approved by the people at the general election to be held in
4 November 2022 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.