

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0587.01 Christy Chase x2008

HOUSE BILL 22-1100

HOUSE SPONSORSHIP

Ransom and Sandridge, Hanks, Luck, Van Winkle, Williams

SENATE SPONSORSHIP

(None),

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PROHIBITION AGAINST DISCRIMINATION BASED ON
102 THE REFUSAL TO OBTAIN A COVID-19 VACCINE.

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 prohibits an employer from taking adverse action against an employee or an applicant for employment based on the employee's or applicant's COVID-19 immunization status. The bill allows an aggrieved employee or applicant for employment to file a civil action for injunctive, affirmative, and equitable relief and, if the employer acted with malice or wanton or willful misconduct or has repeatedly violated the law, the court

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.

may also award punitive damages and attorney fees and costs.

Additionally, the bill specifies that the COVID-19 vaccine is not mandatory, that the state cannot require any individual to obtain a COVID-19 vaccine, and that government agencies and private businesses, including health insurers, cannot discriminate against clients, patrons, or customers based on their COVID-19 vaccination status. A person aggrieved by a violation of these prohibitions may file a civil action for injunctive and other appropriate relief and may be awarded punitive damages and attorney fees and costs for wanton, willful, or repeated violations.

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 "COVID-19 Immunization Nondiscrimination Act" or "CINDA".

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

6 (a) State law prohibits the Colorado department of public health
7 and environment from imposing any mode of treatment inconsistent with
8 the religious faith or belief of any person;

9 (b) State law also prohibits discriminatory or unfair employment
10 practices, including harassment, refusal to hire, refusal to train, and
11 termination of employment, based upon an employee's race, creed, color,
12 national origin, ancestry, sex, sexual orientation, gender identity, gender
13 expression, disability, age, or religion;

14 (c) State law protects employees' jobs and civil rights; provides
15 relief for employees wrongly discriminated against, coerced, or
16 discharged from employment; and reflects judicial interpretations of the
17 federal "Civil Rights Act of 1964", Pub.L. 88-352, as amended;

18 (d) The Colorado department of public health and environment
19 acknowledges the right to informed consent for all treatments and
20 procedures; the right to refuse a drug, test, procedure, or treatment; and

1 the right to treatment in a safe setting that is respectful of personal
2 privacy and that recognizes personal dignity, cultural values, and religious
3 beliefs;

4 (e) The National Academy of Medicine published physician
5 committee reports that acknowledge that there are significant gaps in
6 vaccine safety science, including the need for more biological mechanism
7 studies and methodologically sound epidemiological studies;

8 (f) The federal "National Childhood Vaccine Injury Act of 1986"
9 (NCVIA), 42 U.S.C. secs. 300aa-1 to 300aa-34, as amended, created the
10 "Vaccine Adverse Event Reporting System" (VAERS), the primary
11 government-funded system for reporting adverse vaccine reactions in the
12 United States that is co-administered by the federal centers for disease
13 control and prevention (CDC) and the federal food and drug
14 administration (FDA) and requires health-care providers to report any
15 injury, harm, and adverse event resulting from the administration of a
16 vaccine;

17 (g) Data released by the CDC shows that between December 14,
18 2020, and December 31, 2021, a total of one million sixteen thousand
19 nine hundred ninety-nine adverse events following COVID-19 vaccines
20 were reported to the VAERS, which represents more adverse event
21 reports than had previously been reported to VAERS since its inception
22 in 1990;

23 (h) As of September 24, 2021, seven thousand two hundred fifteen
24 post-vaccination deaths in the United States have been reported to the
25 VAERS, and of those deaths:

26 (I) Eleven percent occurred within twenty-four hours after
27 vaccination;

1 (II) Sixteen percent occurred within forty-eight hours after
2 vaccination; and

3 (III) Twenty-nine percent occurred in people who experienced an
4 onset of COVID-19 symptoms within forty-eight hours after vaccination;

5 (i) While submitting false information to the VAERS is a federal
6 crime, it is important to note that, according to a Harvard Medical School
7 study, only about one percent of actual vaccine adverse events are
8 reported to the VAERS;

9 (j) The medical code of ethics for the American Medical
10 Association accepts that some individuals have medical, religious, or
11 philosophical reasons to not be vaccinated;

12 (k) The ethical principle of informed consent to medical
13 treatment, which requires the voluntary consent of individuals and parents
14 or guardians of minor children prior to the administration of medical
15 treatment, is recognized internationally as a human right under the World
16 Medical Association (WMA) Declaration of Lisbon on the Rights of the
17 Patient, the WMA Medical Ethics Manual, the WMA Declaration of
18 Helsinki of 1964, the United Nations Universal Declaration of Human
19 Rights of 1948, and the Nuremberg Code of 1947;

20 (l) In contrast to most vaccines, which use weakened or
21 inactivated versions or components of the disease-causing pathogen to
22 stimulate the body's immune response, the COVID-19 vaccine uses
23 messenger RNA (mRNA) technology, a process that employs genetic
24 material to prompt cells in the body to make proteins to trigger an
25 immune response;

26 (m) The mRNA technology used in the COVID-19 vaccine shots
27 is experimental and has never before been used in widespread human

1 vaccination programs;

2 (n) Given that the COVID-19 vaccine shots were authorized for
3 use starting in December 2020, less than twelve months after the first
4 COVID-19 case was reported in the United States and less than nine
5 months after pharmaceutical manufacturers began researching and
6 developing a vaccine for COVID-19, there has not been time to conduct
7 long-term safety studies of the vaccinations;

8 (o) Moreover, no studies have conclusively demonstrated the
9 safety of COVID-19 vaccines for pregnant people, nor have studies
10 proven whether interactions between COVID-19 vaccines and other drugs
11 or vaccines are safe;

12 (p) It has been shown that different racial groups have different
13 antibody responses to traditional vaccines, but no studies have been
14 conducted as to the safety of mRNA technology across different racial
15 groups;

16 (q) The Black community, in particular, is acutely aware of the
17 pharmaceutical industry's history of using Black people for medical
18 experimentation;

19 (r) Markers for autoimmunity are now found in more than fifteen
20 percent of the United States population and are steadily rising;

21 (s) Fifty-four percent of the United States population, including
22 children, suffer from at least one chronic illness or disease;

23 (t) Allergies are the sixth leading cause of chronic illness in the
24 United States, resulting in an annual cost in excess of eighteen billion
25 dollars;

26 (u) More than fifty million Americans suffer from allergies each
27 year, and many of those Americans will not be medically able to receive

1 the COVID-19 vaccine without suffering imminent harm;

2 (v) The CDC, FDA, and the vaccine manufacturers all concur that
3 the COVID-19 vaccines will neither prevent infection nor stop viral
4 transmission;

5 (w) On December 10, 2021, Governor Polis declared that "the
6 emergency is over"; and

7 (x) Therefore, it is the intent of the general assembly to enact the
8 "COVID-19 Immunization Nondiscrimination Act", referred to as
9 "CINDA", to prohibit employers, government agencies, educational
10 institutions, and commercial enterprises from taking adverse action or
11 discriminating against employees, applicants for employment, students,
12 or customers who choose to delay or decline the COVID-19 vaccines.

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

15 **8-2-131. Prohibitions of employer - adverse action based on**
16 **COVID-19 immunization status - civil action - definitions.** (1) AS
17 USED IN THIS SECTION:

18 (a) "ADVERSE ACTION" MEANS:

19 (I) TO REFUSE TO HIRE, TO DISCHARGE, TO REFUSE TO PROMOTE,
20 TO DEMOTE, TO HARASS DURING THE COURSE OF EMPLOYMENT, OR TO
21 DISCRIMINATE IN MATTERS OF COMPENSATION, TERMS, CONDITIONS, OR
22 PRIVILEGES OF EMPLOYMENT AGAINST AN EMPLOYEE; OR

23 (II) ANY OTHER EMPLOYMENT DECISION OR TREATMENT THAT
24 ADVERSELY AFFECTS AN EMPLOYEE.

25 (b) "COVID-19" MEANS THE CORONAVIRUS DISEASE 2019 CAUSED
26 BY SARS-CoV-2.

27 (c) "EMPLOYEE" MEANS A PERSON WHO MAY BE PERMITTED,

1 REQUIRED, OR DIRECTED BY ANY EMPLOYER, IN CONSIDERATION OF DIRECT
2 OR INDIRECT GAIN OR PROFIT, TO ENGAGE IN ANY EMPLOYMENT AND
3 INCLUDES AN APPLICANT FOR EMPLOYMENT.

4 (d) "EMPLOYER" MEANS A PERSON TRANSACTING BUSINESS IN
5 COLORADO THAT, AT ANY TIME, EMPLOYS ANOTHER PERSON TO PERFORM
6 SERVICES OF ANY NATURE AND THAT HAS CONTROL OF THE PAYMENT OF
7 WAGES FOR SUCH SERVICES OR IS THE OFFICER, AGENT, OR EMPLOYEE OF
8 THE PERSON HAVING CONTROL OF THE PAYMENT OF WAGES.

9 (e) "SARS-CoV-2" MEANS THE SEVERE ACUTE RESPIRATORY
10 SYNDROME CORONAVIRUS 2.

11 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
12 EMPLOYER SHALL NOT TAKE ADVERSE ACTION AGAINST AN EMPLOYEE
13 BASED ON THE EMPLOYEE'S COVID-19 IMMUNIZATION STATUS.

14 (3) (a) AN EMPLOYEE AGGRIEVED UNDER THIS SECTION MAY FILE
15 A CIVIL ACTION FOR:

16 (I) INJUNCTIVE RELIEF AGAINST ANY FURTHER VIOLATION;

17 (II) AFFIRMATIVE RELIEF, INCLUDING REINSTATEMENT OR HIRING
18 AND BACK PAY AND LOST BENEFITS FOR THE ENTIRE TIME OF THE
19 VIOLATION WITH INTEREST UP TO TEN PERCENT; AND

20 (III) ANY OTHER EQUITABLE RELIEF THAT MAY BE APPROPRIATE.

21 (b) IN A CIVIL ACTION FILED PURSUANT TO THIS SECTION, A COURT
22 MAY ALSO AWARD:

23 (I) PUNITIVE DAMAGES IF:

24 (A) IT IS DEMONSTRATED BY CLEAR AND CONVINCING EVIDENCE
25 THAT THE EMPLOYER HAS ACTED WITH MALICE OR ACTED WITH WILLFUL
26 AND WANTON MISCONDUCT; OR

27 (B) THE EMPLOYER WAS PREVIOUSLY FOUND, IN A PROCEEDING

1 FOR A VIOLATION OF THIS SECTION, TO HAVE VIOLATED THIS SECTION; AND

2 (II) ATTORNEY FEES AND COSTS IN CONNECTION WITH THE CIVIL
3 ACTION.

4 **SECTION 4.** In Colorado Revised Statutes, **add 25-1-137** as
5 follows:

6 **25-1-137. COVID-19 vaccinations - not mandatory - civil**
7 **action - definitions.** (1) AS USED IN THIS SECTION:

8 (a) "ADULT" MEANS AN INDIVIDUAL WHO IS EIGHTEEN YEARS OF
9 AGE OR OLDER OR WHO IS AN EMANCIPATED MINOR.

10 (b) "CHILD" MEANS AN UNEMANCIPATED INDIVIDUAL WHO IS
11 UNDER EIGHTEEN YEARS OF AGE.

12 (c) "COVID-19" MEANS THE CORONAVIRUS DISEASE 2019 CAUSED
13 BY SARS-CoV-2.

14 (d) "COVID-19 VACCINE" MEANS A VACCINE USED FOR PURPOSES
15 OF INDUCING IMMUNITY AGAINST COVID-19 OR SARS-CoV-2 IN
16 HUMANS.

17 (e) "INCAPACITATED PERSON" MEANS AN INDIVIDUAL WHO IS
18 EIGHTEEN YEARS OF AGE OR OLDER AND WHO IS UNABLE TO MAKE OR
19 COMMUNICATE DECISIONS AFFECTING THE INDIVIDUAL'S HEALTH, SAFETY,
20 OR CARE.

21 (f) "INDIVIDUAL IN A PARENTAL RELATIONSHIP WITH THE CHILD"
22 MEANS AN INDIVIDUAL WHO IS A PARENT OR LEGAL GUARDIAN OF A CHILD.

23 (g) "LEGAL GUARDIAN" MEANS AN ADULT WHO IS DESIGNATED BY
24 AN INCAPACITATED PERSON, PRIOR TO THE INCAPACITATION, AS THE
25 PERSON'S LEGAL GUARDIAN OR AN ADULT WHO IS LEGALLY APPOINTED BY
26 A COURT AS THE LEGAL GUARDIAN OF THE INCAPACITATED PERSON.

27 (h) "SARS-CoV-2" MEANS THE SEVERE ACUTE RESPIRATORY

1 SYNDROME CORONAVIRUS 2.

2 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
3 CONTRARY:

4 (a) No COVID-19 VACCINE SHALL BE MADE A MANDATORY
5 IMMUNIZATION IN THIS STATE;

6 (b) AN ADULT MAY VOLUNTARILY CHOOSE, BUT SHALL NOT BE
7 REQUIRED, TO RECEIVE A COVID-19 VACCINE;

8 (c) A CHILD SHALL NOT BE REQUIRED TO RECEIVE A COVID-19
9 VACCINE UNLESS AN INDIVIDUAL IN A PARENTAL RELATIONSHIP WITH THE
10 CHILD CHOOSES TO HAVE THE CHILD RECEIVE THE COVID-19 VACCINE;

11 (d) AN INCAPACITATED PERSON SHALL NOT BE REQUIRED TO
12 RECEIVE A COVID-19 VACCINE UNLESS THE LEGAL GUARDIAN OF THE
13 INCAPACITATED PERSON CHOOSES TO HAVE THE INCAPACITATED PERSON
14 RECEIVE THE COVID-19 VACCINE;

15 (e) A GOVERNMENT AGENCY, COMMERCIAL ESTABLISHMENT OR
16 ENTERPRISE, SERVICE PROVIDER, OR NONPROFIT ORGANIZATION SHALL NOT
17 DISCRIMINATE AGAINST A CLIENT, PATRON, OR CUSTOMER BASED ON
18 WHETHER THE CLIENT, PATRON, OR CUSTOMER RECEIVED THE COVID-19
19 VACCINE; AND

20 (f) A HEALTH INSURER SHALL NOT CONSIDER WHETHER A PERSON
21 HAS RECEIVED A COVID-19 VACCINE AS A CONDITION FOR ISSUING A
22 HEALTH COVERAGE PLAN TO THE PERSON OR AS A METRIC TO DETERMINE
23 HEALTH INSURANCE PREMIUMS.

24 (3) (a) AN INDIVIDUAL AGGRIEVED UNDER THIS SECTION MAY FILE
25 A CIVIL ACTION FOR:

26 (I) INJUNCTIVE RELIEF AGAINST ANY FURTHER VIOLATION; AND

27 (II) ANY OTHER RELIEF, INCLUDING EQUITABLE RELIEF OR

1 DAMAGES, THAT MAY BE APPROPRIATE.

2 (b) IN A CIVIL ACTION FILED PURSUANT TO THIS SECTION, A COURT
3 MAY ALSO AWARD:

4 (I) PUNITIVE DAMAGES IF:

5 (A) IT IS DEMONSTRATED BY CLEAR AND CONVINCING EVIDENCE
6 THAT THE PERSON THAT VIOLATED THIS SECTION HAS ACTED WITH MALICE
7 OR ACTED WITH WILLFUL AND WANTON MISCONDUCT; OR

8 (B) THE PERSON THAT VIOLATED THIS SECTION WAS PREVIOUSLY
9 FOUND, IN A PROCEEDING FOR A VIOLATION OF THIS SECTION, TO HAVE
10 VIOLATED THIS SECTION; AND

11 (II) ATTORNEY FEES AND COSTS IN CONNECTION WITH THE CIVIL
12 ACTION.

13 **SECTION 5. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety.