



## 2023 SENATE BILL 228

April 14, 2023 - Introduced by JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES. Referred to Committee on Administrative Rules.

**AN ACT** *to amend* 252.04 (1), 252.04 (2) and 252.04 (7); and *to create* 252.04

(1m) of the statutes; **relating to:** prohibiting certain actions by the Department of Health Services related to the immunization program.

---

### ***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Health Services is required to carry out a statewide immunization program. As part of the program, students in elementary, middle, junior, or senior high school or in child care centers or nursery schools are required to present written evidence of compliance with vaccination requirements based upon their grade level. Current law specifies a number of diseases for which vaccines are required under the program, but also allows DHS to specify other diseases by administrative rule. Under current administrative rules, additional diseases that DHS has specified include varicella, commonly known as chicken pox, and meningococcal disease (meningitis). Current law provides that if an emergency arises, consisting of a substantial outbreak, as determined by DHS by administrative rule, of one of these diseases at a school or in the municipality in which the school is located, DHS may order the school to exclude students who are not immunized until the outbreak subsides.

This bill prohibits DHS from taking any of the following actions related to the statewide immunization program: 1) requiring immunization against any disease, including meningitis, under the program that was not specified by rule prior to

**SENATE BILL 228****SECTION 1**

January 1, 2023, or 2) including varicella in its definition of what constitutes a substantial outbreak of a disease. The bill also requires DHS to allow an exemption from the varicella vaccine requirement if a parent or adult student reports that the student has a history of varicella disease.

This bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending portions of chapter DHS 144, rules of the Department of Health Services relating to the immunization of students, on March 9, 2023.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 252.04 (1) of the statutes is amended to read:

252.04 (1) The department shall carry out a statewide immunization program to eliminate mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis, and other diseases that the department ~~specifies,~~ subject to sub. (1m), has specified by rule, and to protect against tetanus. Any person who immunizes an individual under this section shall maintain records identifying the manufacturer and lot number of the vaccine used, the date of immunization and the name and title of the person who immunized the individual. These records shall be available to the individual or, if the individual is a minor, to his or her parent, guardian or legal custodian upon request.

**SECTION 2.** 252.04 (1m) of the statutes is created to read:

252.04 (1m) (a) The department may not do any of the following relating to the immunization program under this section:

1. Require immunization against any disease by rule unless the disease was specified by rule under subs. (1) and (2) prior to January 1, 2023.

2. Include varicella in its definition or determination for what constitutes a substantial outbreak of a disease under sub. (7).

**SENATE BILL 228****SECTION 2**

(b) If the department, under this section, requires a vaccine against varicella, the department shall exempt a student from that requirement if the student, if an adult, or the student's parent, guardian, or legal custodian reports that the student has a history of varicella disease.

**SECTION 3.** 252.04 (2) of the statutes is amended to read:

252.04 (2) Any student admitted to any elementary, middle, junior, or senior high school or into any child care center or nursery school shall, within 30 school days after the date on which the student is admitted, present written evidence to the school, child care center, or nursery school of having completed the first immunization for each vaccine required for the student's grade and being on schedule for the remainder of the basic and recall (booster) immunization series for mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis, tetanus, and other diseases that the department ~~specifies~~, subject to sub. (1m), has specified by rule or shall present a written waiver under sub. (3).

**SECTION 4.** 252.04 (7) of the statutes is amended to read:

252.04 (7) If an emergency arises, consisting of a substantial outbreak as determined by the department by rule, subject to sub. (1m), of one of the diseases specified in sub. (2) at a school or in the municipality in which the school is located, the department may order the school to exclude students who are not immunized until the outbreak subsides.

**(END)**