

INFORMED CONSENT IN THE WORKPLACE ACT

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<http://www.house.mi.gov/hfa>

House Bill 4471 as introduced

Sponsor: Rep. Sue Allor

1st Committee: Commerce and Tourism

2nd Committee: Workforce, Trades, and Talent

Complete to 8-18-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4471 would create a new act, the Informed Consent in the Workplace Act, to prohibit discrimination against an employee or volunteer who declines or has not received certain vaccinations, including for COVID-19. An employer also could not require the employee or volunteer to wear a mask in the workplace or disclose to the public that the employee or volunteer has declined or not received a vaccination.

Specifically, under the new act, an **employer** could not do any of the following:

- Discharge, fail or refuse to hire or recruit, or otherwise discriminate against a **qualified individual** with regard to employment, compensation, or a term, condition, or privilege of employment (or threaten to do so) because the individual declines or has not received a **specified vaccination**.
- Require a qualified individual who declines or has not received a specified vaccination to do either of the following:
 - Wear a surgical face mask as a consequence of declining or not receiving a specified vaccination.
 - Display on the qualified individual's person a mark that distinguishes him or her from others who received or did not decline a specified vaccination.
- Disclose to the public that the qualified individual has declined or not received a specified vaccination.
- Retaliate or discriminate against a person because the person has done or is about to do any of the following:
 - File a complaint under this act.
 - Testify, assist, or participate in an investigation, proceeding, or action concerning a violation of this act.
 - Oppose a violation of this act.

Employer would mean an individual, corporation, partnership, firm, limited liability company, organization, association, governmental entity, or other legal entity that allows one or more qualified individuals to work for the employer, accepts applications for employment, or is an agent of an employer. "Employer" would include the state and its political subdivisions.

Qualified individual would mean an individual who performs services, with or without compensation, for an employer.

Specified vaccination would mean any of the following:

- A flu (influenza) vaccination.

- A tetanus, diphtheria, and pertussis (Tdap) vaccination.
- A COVID-19 vaccination.

An employer offering a specified vaccination to its qualified individuals would have to inform them, in writing, of their rights under the act. A qualified individual could decline, in writing, a specified vaccination offered by his or her employer. He or she would not have to state the reason for declining, and the employer could not ask.

An employer could not require an applicant or qualified individual to waive any right under the act. An agreement to do so would be invalid.

A person aggrieved by a violation of the act could bring a civil action in a court of competent jurisdiction to obtain injunctive relief and damages. A court would have to award costs and reasonable attorney fees, and could award treble damages, to a person prevailing as a plaintiff in such an action.

The bill would apply to a collective bargaining agreement entered into, renewed, or extended on or after the bill's effective date.

The bill would take effect 90 days after its enactment.

FISCAL IMPACT:

House Bill 4471 would have an indeterminate fiscal impact on local court funding units. Costs would be incurred depending on how provisions of the bill affected caseloads in courts and the related administrative costs. It is difficult to project the actual impact due to variables such as judicial discretion and case types.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.