

SENATE No. 1517

The Commonwealth of Massachusetts

PRESENTED BY:

Rebecca L. Rausch

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting community immunity.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/23/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/23/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/23/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/23/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/25/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/26/2021</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>2/26/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/26/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/1/2021</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>3/2/2021</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>3/15/2021</i>
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	<i>3/23/2021</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>4/8/2021</i>

SENATE No. 1517

By Ms. Rausch, a petition (accompanied by bill, Senate, No. 1517) of Rebecca L. Rausch, Paul J. Donato, Andres X. Vargas, Jack Patrick Lewis and other members of the General Court for legislation to promote community immunity. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2763 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act promoting community immunity.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 76 of the General Laws is hereby amended by striking out section
2 15, as appearing in the 2018 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 15. All schools shall comply with the requirements established in chapter 111P.

5 SECTION 2. Said chapter 76 is hereby further amended by striking out section 15C, as so
6 appearing, and inserting in place thereof the following section:-

7 Section 15C. All institutions of higher learning shall comply with the requirements
8 established in chapter 111P.

9 SECTION 3. Section 15D of said chapter 76 is hereby repealed.

10 SECTION 4. Section 24N of chapter 111 of the General Laws, as appearing in the 2018
11 Official Edition, is hereby amended by inserting after the word “24M”, in line 32, the following
12 words:- , and to administer chapter 111P.

13 SECTION 5. The General Laws are hereby amended by inserting after chapter 111O the
14 following chapter:-

15 CHAPTER 111P.

16 COMMUNITY IMMUNITY.

17 Section 1. This chapter shall be known and may be cited as the Community Immunity
18 Act.

19 Section 2. As used in this chapter, the following words shall have the following meanings
20 unless the context clearly requires otherwise:-

21 “Covered program”, (a) a child care center, an early education and care program, a family
22 child care home, a large family child care home, a public preschool program, or a school-aged
23 child care program, as defined in section 1A of chapter 15D; (b) a school, whether public, private
24 or charter, that provides education to students in any combination of grade levels from
25 kindergarten to grade 12, inclusive, and including, but not limited to, any school activity open to
26 children who are otherwise instructed in accordance with section 1 of chapter 76; (c) a
27 recreational camp; or (d) an institution of higher education, whether public or private.

28 “Department”, the department of public health.

29 “Exemption”, written authorization from the department for a participant to be excused
30 from the schedule.

31 “Herd immunity”, population-wide resistance to the spread of an infectious disease
32 within that population, resulting from a sufficient percentage of people receiving one or more
33 immunizations with immunity against the disease.

34 “Immunization”, an inoculation administered for the purpose of making a person resistant
35 to an infectious disease.

36 “Participant”, a person who engages in 1 or more activities of a covered program through
37 enrollment or other registration process.

38 “Provider”, a health care provider licensed by an agency, board or division of the
39 commonwealth who, acting within their scope of practice, may lawfully administer an
40 immunization.

41 “Responsible adult”, a parent or legal guardian of a participant, a participant who is an
42 emancipated minor or a participant who has achieved the age of majority.

43 “Schedule”, the immunization administration schedule established by the department and
44 consistent with generally accepted medical practice.

45 Section 3. No covered program shall enroll a participant whose records do not include:

- 46 (a) documentation of immunizations in accordance with the schedule, or other medical evidence
47 of immunity against diseases listed on the schedule; (b) an exemption approval letter issued by
48 the department, consistent with sections 4 through 12, inclusive; (c) evidence that the participant
49 is in the process of obtaining immunizations with the objective of compliance with the schedule;
50 (d) for public schools only, evidence that the participant moved into the commonwealth not more
51 than 90 days before the date of enrollment and the responsible adult is making a good faith effort

52 to obtain the necessary immunization documentation or exemption approval; or (e) evidence that
53 more than 30 days have elapsed since a responsible adult applied to the department for an
54 exemption and the department has not responded.

55 Section 4. The two types of immunization exemptions shall be: (a) medical, for a
56 participant whose medical conditions or circumstances preclude the administration of
57 immunizations, as determined in the best medical judgment of a provider; and (b) religious, for a
58 participant who holds, or whose family holds, sincere religious beliefs conflicting with
59 immunizations. There shall be no other type of exemption.

60 Section 5. The department shall prepare and maintain separate standardized exemption
61 application forms for medical and religious exemptions. The department shall make the forms
62 available to the public online and, as necessary, in hard copy; provided, however, that no covered
63 program shall provide an application form, whether in hard copy or electronically, to a
64 responsible adult or a participant absent a specific request for an application form from the
65 responsible adult.

66 Section 6. The department shall include in the medical exemption application form the
67 following required elements: (a) a checklist of generally accepted contraindications to
68 immunizations, which checklist shall be completed by a provider; (b) a statement that the
69 provider has an established provider-patient relationship with the participant; (c) a request for the
70 signature of the provider; (d) a request for a unique government-issued professional
71 identification number assigned to the provider; (e) a request for the signature of the responsible
72 adult; and (f) requests for dates for all signatures.

73 Section 7. The department shall include in the religious exemption application form the
74 following required elements: (a) a statement that the participant or responsible adult has a sincere
75 religious belief conflicting with immunizations; (b) a certification that the responsible adult has
76 provided a complete and accurate copy of the religious exemption application to the participant's
77 primary health care provider, including the provider's name and contact information; (c) an
78 acknowledgement of receipt from a provider on the participant's primary health care team; and
79 (d) a request for the dated signature of the responsible adult. The department shall state on the
80 application form that the department has determined that refusing to immunize is against public
81 health policy and may result in serious illness or death of the participant or others. The
82 department may provide requirements as alternatives to elements (b) and (c) of this section in the
83 event a participant does not have a primary health care provider.

84 Section 8. The department may add additional elements to the exemption application
85 forms described in sections 6 and 7; provided, however, that the department shall not require any
86 elements seeking a participant's or responsible adult's particular religion or a description thereof.

87 Section 9. A responsible adult shall submit a completed exemption application to the
88 department for review. The department shall determine the method of submission, be it
89 electronic, hard copy, or both.

90 Section 10. The department shall review each exemption application submitted on a form
91 described in this chapter. The department shall approve each validly executed and accurately
92 completed religious exemption application, described in section 7, and each validly and
93 accurately completed medical exemption application, described in section 6, that identifies one
94 or more generally accepted contraindication to immunization.

95 Section 11. The department shall issue a letter to each applicant setting forth the
96 department's determination to approve or deny the exemption application. Whenever practicable,
97 the department shall issue a determination letter not more than 30 days after receipt of the
98 application. For approved applications, the determination letter shall include the final signature
99 date of the application or the expiration date of the approval pursuant to section 12 or both dates.
100 For denied applications, the determination letter shall include the reason or reasons for the
101 denial. The department shall establish a process for appeal or reconsideration for applicants who
102 are denied. An appeal or reconsideration decision from the department shall be deemed an
103 exhaustion of administrative remedies.

104 Section 12. An exemption approved by the department shall be valid for a period of not
105 more than 1 year from the final signature date of the application. The department may, in its sole
106 discretion, require covered programs to exclude exempted participants during a declared public
107 health emergency.

108 Section 13. A private covered program may implement immunization requirements more
109 stringent than those set forth in this chapter, including but not limited to accepting medical
110 exemptions only; provided, however, that no private covered program shall refuse to accept
111 medical exemptions; and provided further, that the program creates and maintains a written
112 immunization policy, which shall be made available to all responsible adults.

113 Section 14. All covered programs shall annually report total numbers of participants who
114 are immune and participants who are exempted from immunization requirements, delineated by
115 exemption type, as applicable, to the department and publish the data to all responsible adults.
116 The department shall designate the methodology for reporting. Publication may be electronic or

117 in hard copy. Publication shall not be required if it would result in disclosure of personal
118 information as defined in section 1 of chapter 93H or otherwise violate applicable privacy laws.

119 Section 15. The department shall annually publish immunizations and exemptions data,
120 delineated by exemption type, as applicable, for each covered program and school district. The
121 department may also publish data by municipality, county, or other geographic designation, or
122 otherwise in its discretion. Publication shall be electronic and may also be in hard copy.
123 Publication shall not be required whenever doing so would result in disclosure of personal
124 information as defined in section 1 of chapter 93H or otherwise violate applicable privacy laws.
125 The department shall directly disseminate electronic copies of any published data to the school
126 physician or nurse assigned to any public covered program pursuant to section 53 of chapter 71.

127 Section 16. Any covered program that has not achieved herd immunity shall be
128 designated as an elevated risk program. Any covered program that fails to report immunization
129 and exemption rates consistent with this chapter shall be designated an elevated risk program.
130 Elevated risk program designations shall remain in place until the department, in its sole
131 discretion, determines that the covered program has sufficiently improved immunity rates in the
132 covered program population.

133 Section 17. The department shall maintain a public, online list of elevated risk programs.

134 Section 18. The department shall create a notice to responsible adults about an elevated
135 risk designation. An elevated risk program shall issue the notice to all responsible adults for
136 participants or those seeking enrollment in the program during the period in which the
137 designation is in place not more than 10 days after receiving an elevated risk program
138 designation. The department may require elevated risk programs to organize and invite all

139 responsible adults to a presentation by the department about immunization safety, immunization
140 efficacy and herd immunity. Whenever practicable, the presentation shall be conducted within 45
141 days after the designation is received.

142 Section 19. The department shall develop and make available online an informational
143 pamphlet about immunization safety, immunization efficacy and herd immunity. The department
144 shall distribute the informational pamphlet, either electronically or in hard copy, to every
145 responsible adult who submits an exemption application pursuant to this section. All elevated
146 risk programs shall distribute the informational pamphlet, either electronically or in hard copy, to
147 all responsible adults for participants or those seeking enrollment in the program during the
148 period in which the designation is in place.

149 Section 20. The department shall promulgate regulations to administer, implement, and
150 enforce this Act, including but not limited to establishing herd immunity rates consistent with
151 established medical practice and public health research. In conjunction with the department of
152 elementary and secondary education, the department of higher education, or the department of
153 early education and care, the department may develop guidelines for covered programs to
154 achieve compliance with this Act.

155 Section 21. In conjunction with and facilitated by the departments listed in section 20, as
156 well as partnerships with trusted community-based organizations and local public health
157 departments, health care providers, or clergy, the department shall conduct outreach to support
158 the delivery of medically accurate information about immunizations and herd immunity,
159 including but not limited to the availability of programs funded through the Vaccine Purchase

160 Trust Fund established in section 24N of chapter 111. Such outreach shall focus on, but not be
161 limited to, immunization gap populations in under-vaccinated communities.

162 Section 22. The department shall collect and report data on immunizations against any
163 infectious disease which has given rise to a declared public health state of emergency in the
164 commonwealth. Daily immunization data reports, which the department shall publish on its
165 website, shall include the number of individuals receiving the immunization, delineated by age
166 and geographic location, including municipal, county, and statewide counts. Further, the
167 department shall collect infectious disease immunization data by key socioeconomic and
168 demographic indicators, including race, gender, ethnicity, disability, sexual orientation and
169 gender identity, primary language, occupation, household income, residence in elder care
170 facilities and other congregate care settings, and housing status, and report such data on its
171 website not less than weekly, except where publication would result in disclosure of personal
172 information as defined in section 1 of chapter 93H .

173 SECTION 6. Section 12F of chapter 112 of the general laws, as appearing in the 2018
174 Official Edition, is hereby amended by striking out, in lines 14 and 15, the words “have come in
175 contact with” and inserting in place thereof the following words:- be at risk of contracting.

176 SECTION 7. Said section 12F of said chapter 112, as so appearing, is hereby further
177 amended by inserting after the word “diagnosis”, in line 18, the following word:- , prevention.

178 SECTION 8. Chapter 5 of the Acts of 1995 is hereby amended by striking out section
179 122.

180 SECTION 9. Sections 1 through 5, inclusive, of this act shall take effect on July 1, 2021.
181 Remaining sections of this act shall take effect upon its passage.