

SENATE No. 1458

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, Worcester and Middlesex</i>	
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/26/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/3/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/9/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/10/2023</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>2/28/2023</i>

SENATE No. 1458

By Ms. Rausch, a petition (accompanied by bill, Senate, No. 1458) of Rebecca L. Rausch, Paul J. Donato, Michael J. Barrett, Carmine Lawrence Gentile and other members of the General Court for legislation to promote community immunity. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

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 2020 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, as so appearing, is hereby further amended by striking out
6 section 15C 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 Section 15D of said chapter 76, as so appearing, is hereby repealed.

10 SECTION 4. Section 24N of chapter 111 of the General Laws, as appearing in the 2020
11 Official Edition, is hereby amended, in line 32, by inserting after the word “24M” 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 acknowledgement from the department that a participant is 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 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. To enroll in a covered program, a participant’s records shall include: (a)
46 documentation of immunizations in accordance with the schedule; (b) an exemption
47 acknowledgement letter issued by the department, consistent with this chapter; (c) evidence that
48 the participant is in the process of obtaining immunizations with the objective of compliance
49 with the schedule; (d) for public schools only, evidence that the participant moved into the
50 commonwealth not more than 90 days before the date of enrollment and the responsible adult is
51 making a good faith effort to obtain the necessary immunization documentation or exemption

52 acknowledgement; or (e) evidence that more than 30 days have elapsed since a declaration of
53 exemption form was submitted to the department. A private covered program may implement
54 immunization requirements more stringent than those set forth in this chapter; provided, that the
55 program creates and maintains a written immunization policy, which shall be made available to
56 all responsible adults; and provided further, that no private covered program shall refuse to
57 accept medical exemptions.

58 Section 4. There shall be two types of immunization exemptions: (a) medical, for a
59 participant whose medical conditions or circumstances preclude the administration of an
60 immunization, as determined in the best medical judgment of a provider; and (b) religious, for a
61 participant who holds, or whose family holds, sincere religious beliefs conflicting with
62 immunizations.

63 Section 5. The department shall prepare and maintain separate standardized declaration of
64 exemption forms for medical and religious exemptions to required vaccinations. The department
65 shall make the forms available to covered programs and the public online and, as necessary, in
66 hard copy. Covered programs shall provide a declaration of exemption form to a responsible
67 adult or a participant only upon request.

68 Section 6. The declaration of medical exemption form shall include, without limitation:
69 (i) a checklist of generally accepted contraindications to immunizations that shall be completed
70 by a provider; (ii) a statement that the provider has an established provider-patient relationship
71 with the participant; (iii) a request for the signature of the provider; (iv) a request for a unique
72 government-issued professional identification number assigned to the provider; (v) a request for
73 the signature of the responsible adult; and (vi) requests for dates for all signatures.

74 Section 7. The declaration of religious exemption form shall include, without limitation:
75 (i) a statement that the participant or responsible adult has a sincere religious belief conflicting
76 with immunizations; (ii) a certification that the responsible adult has provided a complete and
77 accurate copy of the religious exemption declaration to the participant's primary health care
78 provider, including the provider's name and contact information; (iii) an acknowledgement of
79 receipt from a provider on the participant's primary health care team; and (iv) a request for the
80 dated signature of the responsible adult. The form shall include a statement from the department
81 that refusing to immunize is against public health policy and may result in serious illness or
82 death of the participant or others. The department may provide alternative requirements to
83 clauses (ii) and (iii) of this section if a participant does not have a primary health care provider.
84 The form shall not require disclosure of a participant's particular religious beliefs.

85 Section 8. A responsible adult shall submit a completed declaration of exemption form to
86 the department for review. The department shall determine the method of submission, whether
87 electronic, hard copy, or both.

88 Section 9. The department shall review each declaration of exemption form submitted in
89 accordance with this chapter. The department shall acknowledge each validly executed and
90 accurately completed form with a letter indicating that the participant is exempt from required
91 vaccinations and including the expiration date of the exemption. If the declaration of exemption
92 form is improperly completed, the department shall advise the responsible adult of the remedial
93 action necessary for resubmission.

94 Section 10. Whenever practicable, the department shall review and issue a response in
95 accordance with section 9 of this chapter not more than 30 days after receipt of the declaration of

96 exemption form. An exemption acknowledged by the department shall be valid for a period of
97 not more than 1 year from the final signature date on the declaration. The department may, in its
98 sole discretion, require covered programs to exclude exempted participants during a public
99 health emergency.

100 Section 11. All covered programs shall annually report total numbers of participants who
101 have been immunized and participants who are exempt from immunization requirements,
102 delineated by exemption type, as applicable, to the department, in a method determined by the
103 department, and shall distribute the data from the report to all responsible adults electronically or
104 in hard copy. Distribution shall not be required if it would result in disclosure of personal
105 information as defined in section 1 of chapter 93H or otherwise violate applicable privacy laws.

106 Section 12. The department shall annually publish immunizations and exemptions data,
107 delineated by exemption type, as applicable, for each covered program and school district on its
108 website and may publish such data in hard copy. The department may also publish data by
109 municipality, county, or other geographic designation, or by other criteria in its discretion.
110 Publication shall not be required whenever doing so would result in disclosure of personal
111 information as defined in section 1 of chapter 93H or otherwise violate applicable privacy laws.
112 The department shall directly disseminate electronic copies of any published data to the school
113 physician or nurse assigned to any public covered program pursuant to section 53 of chapter 71.

114 Section 13. Any covered program that has not achieved herd immunity shall be
115 designated as an elevated risk program. Any covered program that fails to report immunization
116 and exemption rates consistent with this chapter shall be designated an elevated risk program.
117 Elevated risk program designations shall remain in place until the department, in its sole

118 discretion, determines that the covered program has sufficiently improved immunity rates in the
119 covered program population. The department shall maintain a public, online list of elevated risk
120 programs.

121 Section 14. The department shall create a notice to responsible adults about an elevated
122 risk designation. An elevated risk program shall issue the notice to all responsible adults for
123 participants or those seeking enrollment in the program during the period in which the
124 designation is in place not more than 10 days after receiving an elevated risk program
125 designation. The department may require elevated risk programs to organize and invite all
126 responsible adults to a presentation by the department about immunization safety, immunization
127 efficacy and herd immunity. Whenever practicable, the presentation shall be conducted within 45
128 days after the designation is received.

129 Section 15. The department shall develop and make available online an informational
130 pamphlet about immunization safety and immunization efficacy. The department shall distribute
131 the informational pamphlet, either electronically or in hard copy, to every responsible adult who
132 submits a declaration of exemption form pursuant to this chapter. All elevated risk programs
133 shall distribute the informational pamphlet, either electronically or in hard copy, to all
134 responsible adults for participants or those seeking enrollment in the program during the period
135 in which the designation is in place.

136 Section 16. The department shall promulgate regulations to implement this chapter,
137 except that the department of early education and care, department of elementary and secondary
138 education, and department of higher education shall promulgate regulations to implement
139 application of this chapter to covered programs falling within each department's jurisdiction.

140 Section 17. In conjunction with and as facilitated by the departments listed in section 16
141 of this chapter, as well as partnerships with trusted community-based organizations and local
142 public health departments, health care providers, or clergy, the department shall conduct
143 outreach to support the delivery of medically accurate information about immunizations,
144 including but not limited to the availability of programs funded through the Vaccine Purchase
145 Trust Fund established in section 24N of chapter 111. Such outreach shall focus on, but not be
146 limited to, immunization gap populations in under-vaccinated communities.

147 Section 18. The department shall collect and report data on immunizations against any
148 infectious disease which has given rise to a declared public health state of emergency in the
149 commonwealth. Daily immunization data reports, which the department shall publish on its
150 website, shall include the number of individuals receiving the immunization, delineated by age
151 and geographic location, including municipal, county, and statewide counts. The department
152 shall collect infectious disease immunization data by key socioeconomic and demographic
153 indicators, including race, gender, ethnicity, disability, sexual orientation and gender identity,
154 primary language, occupation, household income, residence in elder care facilities and other
155 congregate care settings, and housing status, and report such data on its website not less than
156 weekly, except where publication would result in disclosure of personal information as defined
157 in section 1 of chapter 93H or would otherwise violate applicable privacy laws.

158 SECTION 6. Section 12F of chapter 112 of the General Laws, as appearing in the 2020
159 Official Edition, is hereby amended by striking out, in lines 14 and 15, the words “have come in
160 contact with” and inserting in place thereof the following words:- be at risk of contracting.

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

163 SECTION 8. Chapter 5 of the Acts of 1995 is hereby amended by striking out section
164 122.

165 SECTION 9. Sections 1 through 5, inclusive, of this act shall take effect on July 1, 2025.

166 Remaining sections of this act shall take effect upon its passage.